



CLOSED  
STACKS



SAN FRANCISCO  
PUBLIC LIBRARY

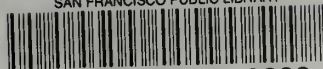
GOVERNMENT INFORMATION CENTER  
SAN FRANCISCO PUBLIC LIBRARY

REFERENCE BOOK

*Not to be taken from the Library*

FEB 25 1985

SAN FRANCISCO PUBLIC LIBRARY



3 1223 90185 9299









1977-80



DOCUMENTS DEPT.

APR 15 1981

SAN FRANCISCO  
PUBLIC LIBRARY

ANNUAL REPORT OF THE CITY ATTORNEY  
CITY AND COUNTY OF SAN FRANCISCO

JULY 1, 1979 - JUNE 30, 1980

GEORGE AGNOST  
CITY ATTORNEY



## TABLE OF CONTENTS

	<u>Page</u>
I. LITIGATION	1
1. Litigation Concluded in Fiscal Year	2
Tort Litigation	2
Nontort Litigation	2
Abatement Actions	3
Workers' Compensation and Subrogation Proceedings	3
STATISTICAL SUMMARY	4
II. APPELLATE LITIGATION	13
III. LEGISLATIVE SECTION	19
Board of Supervisors	20
IV. PUBLIC UTILITIES SECTION	24
Hetch Hetchy Power and Water Supply	25
San Francisco Water Department	26
The Municipal Railway	27
V. RETIREMENT BOARD	29
Retirement Board Hearings and Other Legal Matters	30
Court Litigation	30
State Workers' Compensation Appeals Board Proceedings and Suits in Intervention	31

DOCUMENTS DEPT.  
SAN FRANCISCO  
PUBLIC LIBRARY

\* 352.7

Sa52ar

1979-1982

## TABLE OF CONTENTS

	<u>Page</u>
VI. RATE SECTION	33
Telephone Refunds	34
Transportation	34
Utility Cases	35
Other Departments	36
VII. PORT DIVISION	37
General	38
Services Rendered	38
A. Leases, licenses and other agreements	38
B. Advice and opinions	39
C. Litigation	39
D. Claims	40
E. Construction Contracts	40
F. Unlawful Detainers and Collections	41
G. Civil Service and Personnel Matters	41
H. Governmental Matters	41
VIII. AIRPORTS DIVISION	43
General	44
Services Rendered	44





## TABLE OF CONTENTS

	<u>Page</u>
A. Joint Powers Authority	44
B. Leases, permits and concession agreements	44
C. Claims and litigation	45
D. Construction contracts	45
E. Dismissal and suspension proceedings	45
F. Revenue bonds	45
G. Environmental matters	46
H. Opinions and advice	46
IX. CODE ENFORCEMENT SECTION	47
Abatement Cases	48
New Abatement Cases Received During Year	48
Enforcement Activities	49
Cases Terminated	50
Summary and End of The Year Inventory	51
Advice to City Departments Involved in Code Enforcement	52
Legislation	53
Condominium Conversion	53



## TABLE OF CONTENTS

	<u>Page</u>
X. SPECIAL PROJECTS DIVISION	54
Clean Water Program	55
Solid Waste Management Program	57
Rehabilitation Assistance Program	58
Parking Authority	58
Housing Improvement Programs	59
XI. DEPARTMENT OF SOCIAL SERVICES DIVISION	60
Legal Advice and Opinions	61
Contracts	62
Child Welfare Services	63
Adult Social Services	64
Writs	64
Claims	65
Litigation	66



I. LITIGATION



## I. LITIGATION

The City Attorney's Office handles civil litigation involving the City and County, the San Francisco Unified School District and the Community College District.

### 1. LITIGATION CONCLUDED IN FISCAL YEAR

1,733 actions were concluded during the 1979-80 fiscal year as follows:

Tort Actions	819
Nontort Actions	259
Abatement Actions	222
Workers' Compensation and Subrogation Actions	402
Appellate Litigation	31
Total	1,733

#### Tort Litigation

819 tort actions concluded sought damages for injuries to persons and property and for death.

See Table 1 at the end of this chapter for summary of tort actions concluded.

See Table 2 at the end of this chapter for summary of departments, judgments paid, settlements and cases won or dismissed.

#### Nontort Litigation

259 nontort actions concluded were writ proceedings (mandamus, prohibition, certiorari), contract, eminent domain, tax, antitrust and injunction actions.

See Table 3 at the end of this chapter for summary of departments involved.





### Abatement Actions

222 actions concluded were actions taken to abate nuisances from violations of building, health, housing and related laws and ordinances, instituted after unsuccessful efforts of the departments concerned to eliminate the nuisance.

See Chapter IX of this report for details.

### Workers' Compensation and Subrogation Proceedings

Proceedings before the Workers' Compensation Appeals Board concern applications filed by employees of the City, School District and the Community College District for injuries or death incurred within the scope of employment. The office attended 890 hearings relating to 585 applications.

See Chapter V of this report for details.



## STATISTICAL SUMMARY



TABLE 1

SUMMARY OF 819 TORT ACTIONS  
CONCLUDED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Cases</u>	<u>Judgments Paid</u>	<u>Litigated Settlements</u>	<u>Won or Dismissed</u>
AIRPORT	22	0	10	12
ART COMMISSION	1	0	0	1
BOARD OF SUPERVISORS	1	0	1	0
CHIEF ADMIN. OFFICER	1	0	0	1
COMMUNITY COLLEGE	2	0	2	0
CORONER	1	0	0	1
DEPT. OF ELECTRICITY	3	0	2	1
FIRE DEPARTMENT	7	0	3	4
HETCH HETCHY	5	0	1	4
HOUSING AUTHORITY	2	0	0	2
MAYOR	1	0	0	1
MUNICIPAL COURT	1	0	0	1
MUNICIPAL RAILWAY	452	41	285	126
PARKING AUTHORITY	1	0	0	1
POLICE DEPARTMENT	99	5	45	49
PORT COMMISSION	4	0	3	1
PUBLIC HEALTH	18	1	2	15
PUBLIC UTILITIES COMM.	1	0	0	1
PUBLIC WORKS	122	4	51	67
REAL ESTATE	2	0	2	0
RECREATION & PARK DEPT	19	3	9	7
REDEVELOPMENT AGENCY	1	0	0	1
RETIREMENT	4	0	0	4
S. F. UNIFIED SCHOOL DIST	31	1	13	17
SHERIFF'S DEPT	5	0	2	3
SOCIAL SERVICES	2	0	0	2
WATER DEPARTMENT	10	0	6	4
YOUTH GUIDANCE	1	0	1	0
 TOTAL	 819	 55	 438	 326



TABLE 2

TORT ACTIONS CONCLUDED  
DEPARTMENTS-AMOUNTS PAID

<u>Department</u>	<u>No. of Cases</u>	<u>Prayers</u>	<u>Amount Paid</u>
AIRPORT	22	2,256,265.69	29,050.00
ART COMMISSION	1	50,000.00	0
BOARD OF SUPERVISORS	1	754,027.00	92,800.00
CHIEF ADMIN. OFFICER	1	35,000.00	0
COMMUNITY COLLEGE	2	20,542.00	4,250.00
CORONER	1	2,000.00	0
DEPT. OF ELECTRICITY	3	260,523.64	6,500.00
FIRE DEPARTMENT	7	2,430,201.04	38,608.50
HETCH HETCHY	5	1,275,218.00	0
HOUSING AUTHORITY	2	15,000.00	0
MAYOR	1	0	0
MUNICIPAL COURT	1	4,000.00	0
MUNICIPAL RAILWAY	452	31,179,151.56	1,887,921.46
PARKING AUTHORITY	1	4,500.00	0
POLICE DEPARTMENT	99	25,180,326.51	156,406.88
PORT COMMISSION	4	586,773.62	5,000.00
PUBLIC HEALTH	18	4,307,728.50	7,500.00
PUBLIC UTILITIES COMM.	1	11,946.98	0
PUBLIC WORKS	122	17,821,215.43	377,233.73
REAL ESTATE	2	10,000.00	1,750.00
RECREATION & PARK DEPT	19	800,861.56	45,410.34
REDEVELOPMENT AGENCY	1	35,000.00	0
RETIREMENT	4	116,288.48	0
S. F. UNIFIED SCHOOL DIST	31	1,882,549.79	55,497.95
SHERIFF'S DEPT	5	1,206,913.01	12,500.00
SOCIAL SERVICES	2	75,000.000	0
WATER DEPARTMENT	10	569,382.49	26,450.00
YOUTH GUIDANCE	1	1,900.00	1,200.00
 TOTAL	 819	 90,892,315.30	 2,748,078.86





TABLE 3

SUMMARY OF 259 NONTORT ACTIONS  
CONCLUDED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Actions</u>
ASSESSOR	15
BOARD OF PERMIT APPEALS	13
BOARD OF SUPERVISORS	10
CHIEF ADMINISTRATIVE OFFICER	2
CITY ATTORNEY	2
CITY PLANNING	16
CIVIL SERVICE COMMISSION	15
COMMUNITY COLLEGE	2
CONTROLLER	2
CORONER	1
COUNTY CLERK	1
DISTRICT ATTORNEY	2
FIRE DEPARTMENT	2
MAYOR	4
MODEL CITIES	1
MUNICIPAL COURT	3
MUNICIPAL RAILWAY	16
PARKING AUTHORITY	1
POLICE DEPARTMENT	33
PORT COMMISSION	3
PUBLIC DEFENDER	1
PUBLIC HEALTH	15
PUBLIC UTILITIES COMM.	2
PUBLIC WORKS	28
PURCHASER	1
REAL ESTATE	4
RECREATION & PARK DEPT	4
REDEVELOPMENT AGENCY	8
REGISTRAR OF VOTERS	2
RETIREMENT	15
S. F. UNIFIED SCHOOL DIST	7
SHERIFF'S DEPT	2
SOCIAL SERVICES	3
SUPERIOR COURT	3
TAX COLLECTOR	7
TREASURER	2
WAR MEMORIAL	1
WASTEWATER	1
WATER DEPARTMENT	9
TOTAL	259



TABLE 4

SUMMARY OF CLAIMS FILED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Cases</u>
MUNICIPAL RAILWAY	2,672
COUNTY CLERK	1
AGRICULTURAL COMMISSION	1
AIRPORT	191
BOARD OF SUPERVISORS	3
BUREAU OF HEAT, LIGHT & POWER	2
CITY ATTORNEY	8
CITY PLANNING	2
CIVIL SERVICE COMMISSION	2
COMMUNITY COLLEGE	1
CORONER	3
DEPARTMENT OF PUBLIC HEALTH	150
DEPARTMENT OF PUBLIC WORKS	505
DEPARTMENT OF SOCIAL SERVICES	38
DISTRICT ATTORNEY	20
ELECTRICITY	16
FINE ARTS MUSEUM	8
FIRE DEPARTMENT	84
HETCH HETCHY	3
HOUSING AUTHORITY	5
JUVENILE COURT	10
LIBRARY	4
MAYOR'S OFFICE	5
MUNICIPAL COURT	7
PARKING AUTHORITY	5
POLICE DEPARTMENT	815
PORT COMMISSION	24
PUBLIC ADMINISTRATOR	1
PUBLIC DEFENDER	9
PURCHASER	2
REAL ESTATE	5
RECREATION & PARK DEPT	137
REDEVELOPMENT AGENCY	1
REGISTRAR OF VOTERS	10
RETIREMENT	1
S. F. UNIFIED SCHOOL DIST	13
SHERIFF'S DEPT	61
TAX COLLECTOR	3
TREASURER	2
WASTEWATER	20
WATER DEPARTMENT	149
YOUTH GUIDANCE CENTER	1
MISC.	20
TOTAL NON-MUNI	2,348



TABLE 5

SUMMARY OF ACTIONS FILED DURING FISCAL YEAR

<u>Department</u>	<u>Additions</u>
AIRPORT	24
ABATEMENT	183
ART COMMISSION	1
ASSESSOR	18
BOARD OF PERMIT APPEALS	4
BOARD OF SUPERVISORS	9
CENTRAL PERMIT BUREAU	1
CITY ATTORNEY	2
CITY PLANNING	5
CIVIL SERVICE COMMISSION	16
COMMUNITY COLLEGE	5
CONTROLLER	2
COUNTY CLERK	2
DEPARTMENT OF PUBLIC HEALTH	25
DEPARTMENT OF PUBLIC WORKS	111
DEPARTMENT OF SOCIAL SERVICES	29
DISTRICT ATTORNEY	3
ELECTRICITY	3
FINE ARTS MUSEUMS	1
HETCH HETCHY	5
HOUSING AUTHORITY	1
JUVENILE COURT	3
MAYOR	7
MUNICIPAL RAILWAY	477
PARKING AUTHORITY	3
PORT COMMISSION	23
PUBLIC ADMINISTRATOR	2
PUBLIC DEFENDER	1
PURCHASER	2
REAL ESTATE	19
RECORDER	1
RECREATION & PARK DEPT	24
REGISTRAR OF VOTERS	2



TABLE 5  
Continued

<u>Department</u>	<u>Additions</u>
RENT ARBITRATION BOARD	2
RETIREMENT	66
SAN FRANCISCO FIRE DEPARTMENT	9
SAN FRANCISCO POLICE DEPARTMENT	115
SAN FRANCISCO WATER DEPARTMENT	29
S. F. UNIFIED SCHOOL DIST	15
SHERIFF'S DEPT	9
SUPERIOR COURT	4
TAX COLLECTOR	6
TREASURER	1
WAR MEMORIAL	1
WASTEWATER	14
TOTAL	1,285





TABLE 6

SUMMARY OF OPEN AND PENDING CASES

<u>Department</u>	<u>1979/80 Current</u>
AIRPORT	97.00
ABATEMENT	531.00
(See Section IX)	
ADULT PROBATION	3.00
AGING	1.00
ART COMMISSION	1.00
ASSESSOR	79.00
ASSESSMENT APPEALS BOARD	1.00
BOARD OF SUPERVISORS	46.00
BUREAU OF LIGHT, HEAT & POWER	1.00
CENTRAL PERMIT BUREAU	1.00
CITY ATTORNEY	4.00
CITY PLANNING	22.00
CIVIL SERVICE COMMISSION	58.00
COMMUNITY COLLEGE	4.00
COMMUNITY MENTAL HEALTH	15.00
CONTROLLER	23.00
COUNTY CLERK	9.00
DEPARTMENT OF PUBLIC HEALTH	93.00
DEPARTMENT OF PUBLIC WORKS	500.00
DEPARTMENT OF SOCIAL SERVICES	97.00
DIRECTOR OF FINANCE AND RECORDS	1.00
DISTRICT ATTORNEY	9.00
ELECTRICITY	10.00
EQUAL OPPORTUNITY COMMISSION	1.00
FINE ARTS MUSEUMS	7.00
HETCH HETCHY	20.00
HOUSING AUTHORITY	2.00
HUMAN RESOURCES COMMISSION	1.00
JUVENILE COURT	9.00
JUVENILE PROBATION	1.00
LEGION OF HONOR	1.00
LIBRARY	1.00
MAYOR	19.00
MUNICIPAL COURT	23.00
MUNICIPAL RAILWAY	1,095.00
PARKING AUTHORITY	4.00
PORT COMMISSION	86.00
PUBLIC ADMINISTRATOR	4.00



TABLE 6  
Continued

<u>Department</u>	<u>1979/80 Current</u>
PUBLIC UTILITIES COMM.	4.00
PURCHASER	8.00
REAL ESTATE	68.00
RECORDER	2.00
RECREATION & PARK DEPT	83.00
REDEVELOPMENT AGENCY CITY AND COUNTY OF SAN FRANCISCO	3.00
REGISTRAR OF VOTERS	33.00
RENT ARBITRATION BOARD	2.00
RETIREMENT	129.00
SAN FRANCISCO FIRE DEPARTMENT	28.00
SAN FRANCISCO POLICE DEPARTMENT	357.00
S. F. UNIFIED SCHOOL DIST	126.00
SAN FRANCISCO WATER DEPARTMENT	86.00
SHERIFF'S DEPT	41.00
SUPERIOR COURT	11.00
TAX COLLECTOR	38.00
TREASURER	1.00
WAR MEMORIAL	2.00
WASTEWATER	19.00
YOUTH GUIDANCE CENTER	5.00
ZONING ADMINISTRATOR	2.00
TOTAL	3,928.00



## II. APPELLATE LITIGATION



## II. APPELLATE LITIGATION

The following is a compendium of cases in which final decisions were rendered during the fiscal year 1979-80. The appellate cases concluded are:

1. City and County of San Francisco v. Stradtner 1 Civ. No. 45541 (unpublished). The City had sought an injunction to restrain defendants' use of the garage on their residentially zoned property for storage of electrical contractor's materials and commercial vehicles. The trial court found that the City had failed to establish an "enjoinable violation" of the City Planning Code but refused the City's request for findings on the nature of the use of the garage. The Court of Appeal reversed the trial court's judgment, holding that the uncontested evidence compelled the conclusion that defendants were maintaining the conditions alleged in the City's complaint. The trial court erred in refusing to make the requested findings and further erred in concluding that the use of the garage was "within the permissive standards" of the City Planning Code. (Hermann)

2. City and County of San Francisco v. United States, et al., 443 F.Supp. 1116 (N.D. Cal. 1977), aff'd 615 F.2d 498 (9th Cir. 1980). The City challenged the leasing by the federal government of the Hunters Point Naval Shipyard to a private ship repair operation. The City argued that the Department of the Navy had violated environmental and other regulations governing the leasing of such properties, and it further contended that the lease was a product of fraud and tainted by conflict of interest.

The trial court rejected the City's complaint on procedural grounds. It did not reach the merits of the City's contentions. On appeal, the Ninth Circuit affirmed on similar grounds. (Ward)

3. Clay v. San Francisco Unified School District, et al., 1 Civ. No. 43498 (unpublished). This case involved a petition for writ of mandate asking the court to compel respondent SFUSD to classify plaintiff as a permanent employee of the school district on the grounds that because she had worked 75 per cent of the regular school year for four consecutive years in the capacity of a substitute teacher, she was entitled to status as a tenured permanent employee. The Court of Appeal upheld the City's position that, as a temporary substitute teacher, plaintiff was not entitled to the permanent status she sought. The Supreme Court denied a hearing. (R. Murphy)

4. Edwards v. Steele, 25 Cal.3d 406. Petitioner sought a writ compelling the Zoning Administrator to comply with an order of the Board of Permit Appeals granting petitioner a zoning variance. The City contended that the Board's decision was in





excess of its jurisdiction because it was issued beyond the mandatory 40-day limit on the Board's actions. The Supreme Court ruled that the time limitation is mandatory only in the sense that it is subject to mandate by the courts. The Court further held that where a petitioner is not responsible for the violation of the 40-day rule, he should not be injured by reason of the Board's dilatory action. (Hermann)

5. Hazelton v. City and County of San Francisco, No. 77-2564 (9th Cir. 1979) (unpublished). Plaintiff sued a variety of police officer and citizen defendants arising out of a 1975 arrest. The City was granted a summary judgment in favor of its police officers. On appeal, however, the summary judgment was reversed on the ground that questions of fact remained that could not be summarily resolved. (Ward)

6. Hughes v. Superior Court, 106 Cal.App.3d 1. Hughes, a deputy public defender, had two criminal cases set for trial on the same date. Although he was led to believe that one would be called first, and prepared accordingly, the other case was called. He had informed the court that in addition to his general failure to prepare the case, he had been unable to interview the court-appointed psychiatrist who examined his client. Hughes was found in contempt for refusing to obey the court's order to proceed to trial. The Court of Appeal held that the trial court erred in finding insufficient reason for Hughes' refusal to proceed. Protection of his client's constitutional right to adequate representation at trial was sufficient reason, irrespective of the reason for inadequacy. (Delventhal)

7. In the Matter of Delia A., a Minor, 1 Civ. No. 48541 (unpublished). Judgment terminating parental rights pursuant to Civil Code §232, based upon the mental illness of the mother, was affirmed. The Court rejected appellant's contention that social services were mandated for the grandfather as a "de facto" parent. (Griner)

8. In the matter of T.J., aka L.J., a Minor, 1 Civ. 47774. A dependency petition was filed for an out-of-home placement order pursuant to Welfare and Institutions Code Section 300. The appellate court findings supported the exercise of jurisdiction by the Juvenile Court. Orders filed on June 20 and June 28, 1979, were affirmed. (Verducci)

9. In the matter of Tasha D., a Minor, 1 Civ. 49390. A dependency petition was filed for an out-of-home placement order pursuant to Welfare and Institutions Code Section 300. The appellate court findings supported the exercise of jurisdiction by the Juvenile Court. Order of April 4, 1980, was affirmed. (Verducci)



10. I.T.T. World Communications v. City and County of San Francisco and State Board of Equalization, 101 Cal.App.3d 246. Plaintiff sought recovery of taxes paid claiming that the method of valuation used (capitalization of income) was erroneous and violated the State Board of Equalization guidelines, which established Replacement Cost New Less Depreciation as the ceiling for valuation. The court upheld the trial court's granting of summary judgment and ruled the board was free to alter its method of assessing such property. Savings to the City amounted to approximately \$50,000 per year. (T. Murphy)

11. Lubey and Hood v. City and County of San Francisco, et al., 98 Cal.App.3d 340. This case involved an action for writ of mandate brought by two probationary members of the San Francisco Police Department to force the department to reinstate them following summary termination by Chief Charles Gain. The Court of Appeal upheld the trial court's decision that the two officers be reinstated. The higher court determined that where there is a charge of misconduct, with its attendant possibility for damage to the employee's future reputation and employability, due process mandates that such employee receive standard notice and hearing rights. The Supreme Court denied the City's petition for a hearing. (R. Murphy)

12. Manson v. Civil Service Commission, 1 Civ. No. 45764 (unpublished). Case involved a petition for writ of mandate to set aside the decision of respondent Commission approving petitioner's termination pursuant to Civil Service Rule 25.02, which provides for an employee's automatic resignation when the employee is deemed to have abandoned his or her position. The Court of Appeal agreed with the trial court's findings that her due process rights had been adequately protected, and that there had been no abuse of discretion in terminating her. (R. Murphy)

13. Merandette v. City and County of San Francisco, 1 Civ. 42511, \_\_\_ Cal.App. 3d \_\_\_. Petitioners operated video amusement machines in public places. In May, 1977, the Police Department arrested a person for violation of California Penal Code Section 330(a) and Municipal Police Code Section 302 because the person playing the machine received additional chances to play. Petitioners sought an injunction to enjoin the confiscation of the video blackjack or "21" machines. The Court of Appeal affirmed the Superior Court's denial of petitioner's application for a preliminary injunction. (Moscone)

14. Owens Corning Fiberglas Corporation v. San Francisco Airports Commission, Superior Court No. 725-576. Titan Pacific Construction Corporation was the low bidder on a contract for the remodeling of the airports garage. After award, Titan Pacific petitioned the Commission, pursuant to Sec. 4107 et seq., of the





California Government Code, to allow it to substitute a subcontractor other than Owens Corning Fiberglas due to Titan's inadvertent clerical error. The Commission allowed the substitution. Owens Corning sought relief by administrative mandamus, alleging a lack of proper notice of the hearing, improper findings of fact by the Commission and insufficient evidence to justify the Commission's finding of clerical error. A trial court decision in favor of the Commission and Titan was upheld by the Court of Appeal. The Supreme Court denied a hearing. (Woods)

15. Pacific Tel. and Tel. v. Public Utilities Commission, 600 F.2d 1309. The United States Supreme Court denied another petition for certiorari by Pacific Telephone, \_\_\_\_ U.S. \_\_\_\_, 62 L.Ed.2d 176 (1979). Justice Rehnquist and the full Court had previously denied applications for stays pending action on the petition, (61 L.Ed.2d 880; 62 L.Ed.2d 28). The City has successfully thwarted Pacific Telephone's attempt to overturn refund orders. As a result of the decision by the United States Supreme Court and prior victories before the California Supreme Court and California Public Utilities Commission, the City will receive refunds of \$560,000 and San Francisco subscribers will receive refunds of over \$26 million. (Snaider)

16. Parks v. City and County of San Francisco, 1 Civ. No. 45506 (unpublished). This case involved an appeal from the trial court's denial of a motion for relief from the provisions of Government Code Section 945.4, which requires that a claim be filed before an action for money damages can be brought. The Court of Appeal agreed with the trial court's decision that the petitioner had not made a sufficient showing of excusable neglect. The Supreme Court denied a hearing without comment on July 12, 1979. (R. Murphy)

17. Scott v. Feinstein, 1 Civ. 47284 (unpublished). Petitioner, a member of the Board of Permit Appeals, decided to run against the Mayor. The Mayor removed the petitioner from office for two reasons: First, his candidacy would tend to undermine the authority of the Mayor and her administration; second, his candidacy would be inconsistent with his ethical duties as a quasi-judicial officer. Petitioner sought a writ to compel the Mayor to reinstate him. The City argued, among other things, that the petitioner served at the pleasure of the Mayor and that the Mayor's removal of petitioner was a proper exercise of her discretion. After the trial court denied the writ, petitioner filed another petition in the Court of Appeal. The Court of Appeal denied that writ, and the Supreme Court denied petitioner's petition for hearing. (Delventhal/Hermann)



18. Shell Oil Company v. Superior Court of the City and County of San Francisco, 1 Civ. 49294. Shell Oil Company, lessor of certain real property, challenged the constitutionality of City Planning Code §303, which provides that only the owner of the property or his authorized agent may apply for a conditional use permit. The Superior Court sustained the City and Shell Oil Company filed a writ of mandate in the Court of Appeal. The Court of Appeal denied the writ on the basis that Shell Oil failed to join an indispensable party. Thereafter, Shell Oil filed a writ of mandate with the California Supreme Court, who granted an alternative writ of mandate and remanded the case to the Court of Appeal for a decision on the merits. On remand, the Court of Appeal summarily denied the writ on the grounds that Shell Oil had filed a notice of appeal with it. (Delventhal/Barkley)

19. Silvers v. Superior Court, 1 Civ. 47206 (unpublished). Petitioners, a minor whose parents do not reside in San Francisco and a children's rights organization, sought a writ in a class action to compel the County Clerk to accept for filing his petition for emancipation. Petitioners also sought attorneys' fees. The Superior Court, relying on a provision of the Civil Code establishing the county of residence of an unemancipated minor as that of his parents, had ordered the County Clerk to refuse to accept any petitions of unemancipated minors whose parents do not reside in San Francisco. After the proceedings had commenced, the Superior Court vacated its decision. The Court of Appeal denied the writ on the grounds that the matter had been rendered moot. The Court also denied petitioners' request for attorneys' fees. (Hermann)

20. Vega v. City and County of San Francisco, 1 Civ. 46976. Plaintiff caught her arm in a Municipal Railway coach as she disembarked. When the coach started up, plaintiff was dragged; she alleged personal injury. The trial court ruled in the City's favor, and the Court of Appeal affirmed. The Supreme Court denied hearing. (Hackley)

21. Wolford, et al., v. Board of Permit Appeals, 1 Civ. Nos. 40443, 42771. This case involved a petition for writ of mandate seeking to revoke two alteration permits issued to real parties in interest. The Court of Appeal sustained the Superior Court's denial of the writ. Petitions for hearings in the California and the United States Supreme Courts were denied. (Moscone)





### III. LEGISLATIVE SECTION



### III. LEGISLATIVE COUNSEL

#### Board of Supervisors

During the past fiscal year, this office performed legal work in connection with the preparation, analysis, review or approval of 625 ordinances and 1,196 resolutions which were enacted or adopted by the Board of Supervisors during the year. The office performed similar work in connection with more than 36 proposed charter amendments.

There were 81 formal written opinions rendered and numerous letters of advice sent to the Board of Supervisors during this same period. In addition, many hours were spent in consultation with the members of the Board of Supervisors and the Clerk of the Board. At least one deputy from this office was present at each meeting of the Board or of its various committees to give legal advice and assistance with respect to the many problems that arise during the course of such meetings.

Illustrative of the diverse types of legislation which were prepared and approved by this office during the past year are:

A legal opinion regarding affirmative action in awarding concessions at the San Francisco International Airport.

Legal opinions regarding the submission of a proposed new charter and the effect of concurrent passage of both a new charter and charter amendments.

A legal opinion regarding high-rise fire regulations.

A legal opinion regarding approval of personal services contracts by the Civil Service Commission.

An emergency ordinance providing for a moratorium on demolition or conversion of residential hotel units and prohibiting conversion of apartments to hotel uses.

An emergency ordinance temporarily prohibiting conversion of residential units above the ground floor to commercial use in order to provide a reasonable period of time to develop and implement Neighborhood Commercial Special Use Districts in particular neighborhoods.

Emergency ordinances setting rent increase guidelines and extending a residential rent arbitration and stabilization ordinance.



An emergency ordinance appropriating tuition reimbursement funds to meet contractual obligations between the City and County and various employee organizations.

Ordinances revising and increasing the rate of the business and the payroll expense taxes.

An ordinance mandating city officers, boards and departments to prepare and implement affirmative action plans in coordination with the civil service commission in compliance with relevant federal, state and local law and guidelines.

An ordinance limiting campaign contributions and directing the return, donation or transfer of unexpended contributions held by a candidate or committee after the date of the election.

An ordinance requiring city departments to fix administrative cost rates for services performed for grant projects and requiring all grant applications to contain provisions for the reimbursement of all allowable administrative expenses incurred by the City and County.

An ordinance providing that moneys collected in the parking tax fund are used in part for auditing and monitoring senior citizens' programs.

An ordinance prohibiting the obstruction of any street, sidewalk, passageway or other public place and the remaining upon private or business property after being asked to leave, also providing for exceptions and penalties.

An ordinance appropriating a maintenance budget for the cable car system rehabilitation project.

Various ordinances approving agreements to be entered into by the Recreation and Park Commission for creating and operating nursery schools at certain municipal playgrounds.

An ordinance requiring each gasoline retailer to clearly post signs indicating the anticipated days and hours of operation, the maximum on sales and the availability of gas.

An ordinance authorizing Civil Service to implement a voluntary flex-time work schedule.

A resolution authorizing the Mayor to contract with a housing finance consultant for analysis of housing rehabilitation and purchase finance programs for San Francisco, and development of a housing loan pool.





A resolution reaffirming support of state and local fair housing legislation and opposition to discrimination in the purchase and rental of housing in San Francisco and requesting the City Attorney to report on allegations of discrimination.

A resolution authorizing the application for and acceptance of federal funds so to establish a revolving loan program to assist local business in obtaining necessary financing for employment-generating projects.

A resolution authorizing the use of funds from the Community Development Block Grant Entitlement from the U.S. Department of Housing and Urban Development for continued program operating costs for the senior escort program.

A resolution authorizing issuance of residential rehabilitation bonds.

Resolutions appropriating funds for capital project budget for wastewater program.

Resolutions authorizing the acceptance of grant funds from the State Solid Waste Management Board for a refuse disposal and energy recovery program.

Resolutions authorizing the Mayor to accept and allocate CETA funds for vocational training programs.

A resolution urging all western nations, including the United States, to lift immigration quotas to allow immigration of Chinese and other refugees from Vietnam and Cambodia.

A resolution endorsing and supporting the Cambodian emergency relief fund.

A resolution reaffirming city policy that the Embarcadero Freeway be demolished and requesting a transfer of federal funds to other transportation projects in the vicinity of the Embarcadero.

A resolution requesting BART Directors to provide extended and supplemental bus service within San Francisco.

Resolutions authorizing the acceptance of funds for the provision of training and rehabilitation services for disabled adults.

A resolution finding that the revised schedule of rates and charges established by the Airports Commission will be sufficient to pay for maintenance and operation expenses of the Airport will not require any tax subsidy.





A resolution urging the California Legislature to pass legislation providing for bail reform insuring a more fair and equitable operation of the criminal justice system.

A resolution appropriating funds from the Urban Park and Recreation Recovery Program for the rehabilitation of Golden Gate Park.

A proposed Charter amendment setting forth a proposal relating to conflicts of interest and other prohibited practices of any member of a board or commission in the City and County.

A proposed Charter amendment regarding the fixing of municipal railway fares.



IV. PUBLIC UTILITIES SECTION



#### IV. PUBLIC UTILITIES SECTION

This section nominally is staffed by five attorneys, but uses the services of several other deputy city attorneys as need arises for their special skills. The section is responsible for all counseling, legal draftmanship and litigation involving the Public Utilities Commission, its several bureaus, the Water Department, the Hetch Hetchy project, and the Municipal Railway. An exception is that personal injury and property damage claims and suits arising out of operation of the railway are the responsibility of the Muni trial section, whose activities are covered elsewhere in this report.

The Public Utilities Commission itself regularly meets twice a month and customarily holds a number of special meetings during the year. Each meeting is attended by an attorney from the section who provides procedural and substantive legal advice on request.

At virtually every meeting, the award of various contracts pursuant to the bidding process is made. The total for the fiscal year ending June 30, 1980 was in excess of 150. Frequent questions referred to counsel relate to responsiveness of bids, raised usually by a second or third low bidder (bid protests) and occasionally by staff members. Bid problems, which generally involve questions of compliance with the Commission's minority business enterprise goals, along with more conventional contract bid problems, are brought to the attention of the City Attorney's staff sufficiently in advance of Commission meetings that well-considered advice is furnished to the Commission when it is ready to act.

#### HETCH HETCHY POWER AND WATER SUPPLY

The advent of steeply-climbing prices for fossil fuels and the necessity of frequent rate adjustments to keep Hetch Hetchy electric rates at market value required substantial legal research and assistance to the department during the year. Indeed, the principal issue in litigation between City and airport tenants, City and the Turlock and Modesto Irrigation Districts, and City and Norris Industries is whether City can charge a market value rate (based in substantial part on electric generation by fossil fueled thermal plants) when City's own generation is entirely hydro-electric in nature.



With the valuable assistance of outside counsel, the U.S. Supreme Court denied petitions for certiorari of City's power customers to review a decision of the Ninth Circuit Court of Appeals that San Francisco electric rates, being set pursuant to its charter under authority of the California Constitution, were not subject to approval by the Secretary of the Interior.

The cases now are awaiting trial on the issue of whether Hetch Hetchy electric rates are valid under concepts of California utility law (are not arbitrary, unreasonable, or unjustly discriminatory).

Several meetings were held with representatives of the Department of Agriculture (Forest Service) concerning a demand that City convey certain Hetch Hetchy lands pursuant to a federal interpretation of Section 9(t) of the Raker Act.

A successful petition to permit installation of flash boards on Cherry Dam, effectively increasing storage in Lake Lloyd and generation of electric energy at Holm Powerhouse during the spring runoff, was shepherded through the State Water Resources Control Board.

#### SAN FRANCISCO WATER DEPARTMENT

Preparation for trial of the long-standing litigation between peninsula resale customers and the City over alleged unreasonably high water charges by the City continued. Responsibility for this litigation is now shared with outside counsel.

There were 31 contracts reviewed and approved during the fiscal year, as well as 12 grazing leases.

Revision and updating of the department's Rules Governing Service to Customers was completed during the year.

A particularly vexing problem - - responsibility of the applicant for water service to fund extensions of mains solely to provide water for fire fighting purposes - - was researched and the department, Commission and applicant advised.

City's ordinances permitting the establishment of liens against the property served to cover unpaid water, sewer service and industrial waste charges result in research and letters of advice to the Commercial Division virtually every month.







## MUNICIPAL RAILWAY

Some 54 construction and consultant contracts were reviewed and approved. The transit system, being extremely labor-intensive, required much attorney time and input in negotiations of Memoranda of Understanding with the union representing bus drivers and other platform workers. Major issues this year were implementation of part time employments (including a successful arbitration proceeding) and the start-up of Muni Metro operations.

Legislation to authorize a transit development fee and a transit impact fee, was drafted for Board of Supervisors' consideration.

A major legal assignment was the drafting of several Muni fare increase packages for consideration of the Commission and later of the Board of Supervisors.

Research was performed and letters of advice prepared on non-civil service and emergency employments, purchasing procedures, and emergency contracting procedures.

A collision between two LRVs in the course of testing required the use of an attorney over several days to take statements of employees relative to events leading up to the collision and possible causes thereof.

Trial preparation and discovery for a suit involving construction of the Metro Center continued. This is major litigation with a prayer of about \$3 million in extras by the contractor. A suit involving a contractor's claim for extras for construction of Woods Center was scheduled to begin on July 1 of the new fiscal year.

As the fiscal year drew to a close, attempts were in progress to complete the work and settle long-standing differences with the Keane Manufacturing Company over installation of fare collection system. Similarly, a like process was underway relative to the subway signal system contract, the contractor being the Wismer & Becker Company.

While technically the legal problem was the Purchaser's, the Commission was concerned because a lawsuit was brought charging the Purchaser and the Commission with racial discrimination, in rejection of the bid of Teleport Oil Company to supply the Municipal Railway with diesel fuel, the Teleport Oil Company claiming to be a minority business enterprise. The federal district court granted City a summary judgment, there being a total absence of facts that would establish racial discrimination, and no evidence to rebut City's evidence that the



bid was rejected as being non-responsive to the call for bids, in that the bidder had changed its terms.

Many other activities were undertaken, including efforts to collect from Fast Pass vendors who have defaulted on payments to the Muni, assignment and modification of the contract permitting advertising on Muni vehicles, initial work on a "design-and-build" contract to convert the 55-line to trolley coach operation, handicapped access goals, para transit contracts, and complicated payment problems resulting from a judgment for supplemental compensation for about 270 operators going back to fiscal 1976-77.



V. RETIREMENT BOARD



## V. RETIREMENT BOARD

### RETIREMENT BOARD HEARINGS AND OTHER LEGAL MATTERS

The San Francisco City and County Employees' Retirement System is administered and managed by the Retirement Board. A Deputy City Attorney is specifically assigned by the City Attorney to act for this office as counsel for the Retirement Board and the Retirement System. This deputy devotes full time to the varied legal problems involved in the daily operations of the Retirement System. He attended each of the 34 meetings of the Retirement Board during the past fiscal year for the purpose of advising the Board on legal matters.

During the year, the Board heard approximately 150 cases in which applicants sought disability or death benefits because of industrial injuries. The deputy assigned to the Retirement Board prepared for and participated in each of these cases by cross-examining applicants and witnesses and producing and examining witnesses so that there would be a full presentation of all pertinent facts to the Board.

The deputy assigned to the Retirement Board also supervises other attorneys in this office who are designated to represent the City and County and the Retirement Board in matters before the State Workers' Compensation Appeals Board and the courts of this state. During the year, a certified workers' compensation specialist was engaged full time in handling workers' compensation cases.

### COURT LITIGATION

This office represents the Retirement System and Retirement Board, both in the courts and before the Workers' Compensation Appeals Board. Most of the litigation involving the Retirement System concerns the determination by the Court as to who is entitled to benefits under the Retirement System, the extent of such benefits or whether benefits have been improperly denied an employee or his beneficiary.

During the year, only 3 Administrative Writs of Mandate were petitioned for against the Retirement Board. In 1 of these cases, the petition was denied. The other 2 matters are still pending. 1 lawsuit for declaratory relief was filed. This case was dismissed and the matter is on appeal.





As we have been reporting in recent years, this office is being called upon more and more frequently to represent the Retirement System in domestic relations litigation involving employees of the City and County who are members of the Retirement System. Until recently, it was usually not necessary to prepare pleadings or appear in court in such cases. However, as a result of recent appellate court decisions authorizing joinder of pension plans in domestic relations cases, it is now the usual practice to join the Retirement System as a party to the proceedings. As a result, an increasing amount of time is spent not only conferring with attorneys representing parties and assisting them with the legal problems relating to the interests of the parties in the benefits provided under the Retirement System but also more and more time is necessarily devoted to the preparation of pleadings, responding to interrogatories and appearances at pre-trial conferences.

The City Attorney also represents the City and Retirement System in respect to the City's right of subrogation against third parties who negligently cause injury to City employees whereby reimbursement is obtained for the amount of compensation paid and medical costs incurred by the City for the benefit of such employees as a result of their injuries. Where a City employee is injured in the course of his employment by a third party, the City has the right to intervene in that action in order to recover the amount of benefits paid to or on behalf of the City employee. During the past year, actual cash recoveries from July 1, 1979, to June 30, 1980, increased from \$137,084.86 to \$194,093.62.

STATE WORKERS' COMPENSATION APPEALS BOARD  
PROCEEDINGS AND SUITS IN INTERVENTION

Pursuant to Section 8.515 of the Charter, the Retirement Board administers the benefit provisions of the Workers' Compensation laws of the State of California for industrial injuries and deaths sustained by employees of the City and County, the Unified School District and the Community College District. This office appears on behalf of the Retirement System in hearings before the Workers' Compensation Appeals Board of the State of California in connection with all contested claims for workers' compensation benefits involving the City and County, the Unified School District and the Community College District. Hearing are held by the Appeals Board in those cases in which the Retirement System denied liability for the alleged industrial injury or death denies that an injury occurred, contests the claimed disability resulted from the injury or in which the Retirement System questions the extent of the claimed disability.



There were approximately 7,000 industrial injuries among City employees during the past year; 585 applications for workers' compensation benefits were filed or pending before the Appeals Board. As a result, this office prepared for and participated in 890 hearings before the Appeals Board. The hearings involved applications for benefits filed by employees of the following departments and agencies: Airport, City Attorney, City Planning, Community College District, Controller, Electricity, Fire, Hetch Hetchy, Juvenile Court, Mayor's Office, Municipal Court, Municipal Railway, Police, Public Health, Public Library, Public Works, Purchaser, Recreation and Park, Registrar of Voters, Sheriff, Social Services, School District, Tax Collector and Water.



VI. RATE SECTION



## VI. RATE SECTION

### TELEPHONE REFUNDS

After years of successful litigation by our office and despite numerous delays caused by frivolous lawsuits, San Franciscans finally received massive telephone refunds this year. The first installment of refunds won by our office occurred in May and June, 1980. Most residential users paid no bills during this period. The second wave of refunds which will be primarily for large business telephone users will occur in May of 1981. Further residential refunds will be sent to those customers with extremely large bills. Pacific Telephone will be refunding approximately \$400,000,000 system-wide. It is estimated that San Francisco telephone users will receive approximately \$26.7 million dollars in refunds. The City as a consumer of telephone services will receive \$560,000 dollars of refunds.

The litigation which resulted in these refunds began in 1970. Our office has been involved in every phase of the litigation. We won numerous California Supreme Court victories on this issue and finally secured a refund order from the California Commission which was affirmed all through the United State Supreme Court. The telephone company sought further delays in refunds through actions brought in the federal courts. This fiscal year, we thwarted the telephone company's efforts to stop the refunds in the Ninth Circuit (Pacific Tel. & Tel. v. PUC, 600 F.2d 1309 (1979)) and in the United States Supreme Court where the court denied certiorari. Justice Rehnquist and the Court as a whole refused to grant further stays of the refund order.

Although we were successful in gaining the refunds, the California Public Utilities Commission (CPUC) refused to implement rate reductions the California Supreme Court had previously affirmed. We are presently seeking these refunds in actions before the California Supreme Court.

### TRANSPORTATION

Southern Pacific sought to abandon its commute train service between San Francisco and San Jose. At the beginning of the fiscal year, an Administrative Law Judge of the Interstate Commerce Commission ordered the commute service to be abandoned. Our office filed an appeal with the Interstate Commerce Commission and during the pendency of the appeal our office along with the counties of Santa Clara, San Mateo and the State Department of Transportation negotiated with Southern Pacific.







On July 1, 1980, we signed a contract with Southern Pacific which enables the trains to remain in service. San Francisco's portion of the subsidy is approximately 2% of the total subsidy that Southern Pacific will receive. The subsidy is in lieu of a subsidy previously paid by the City to Southern Pacific's passengers.

#### UTILITY CASES

Our office has been active in utility rate cases involving Pacific Telephone and Pacific Gas and Electric. During this fiscal year, the CPUC rejected a \$470,000,000 rate increase sought by PT&T and granted it less than 10% of the proposed increase. Our office is presently seeking a refund of over \$40,000,000 rising out of this case. It is anticipated that we will take this matter to the California Supreme Court if the refund is not expeditiously made. PT&T has filed for almost \$800,000,000 in increases. This matter will be going to hearing by late 1980.

The Pacific Gas and Electric Company during the year requested increases in gas and electric rates totaling nearly \$3,300,000.000 dollars. The CPUC granted increases in gas rates totaling \$1,326,900.00 and electric rates totaling \$1,428,000.00.

The electric rate increases included \$902,000.00 in ECAC rates (Energy Cost Adjustment Clause). This office has fought vigorously against rate increases of the magnitude requested by the company and the major portion of those increases granted by the CPUC were due to increased costs of purchased gas and fuel oil.

Presently, the City is requesting, along with other consumer groups, that the CPUC deny the company's latest gas adjustment clause increase of \$589 million dollars.

We are also appearing in OII-77, which will establish new lifeline rates for summer gas heating usage. San Francisco customers must of necessity use gas heating during the "summer" months because of the low temperatures resulting from summer fog. San Francisco is therefore requesting larger lifeline amounts for City residence.



## OTHER DEPARTMENTS

Our office has actively assisted various City departments in rate making matters. We are involved in the areas of Cable Television, garbage rates, federal court litigation involving water rates charged on the peninsula and Hetch Hetchy power rates charged at the airport. These activities are continuing and involve complex litigation.



VII. PORT SECTION



## VII. PORT SECTION

### GENERAL

The San Francisco Port Commission was created and established by Section 3.580 of the Charter of the City and County of San Francisco to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco. Said Port area consists of over 2,000 acres of real estate spread over more than 5 1/2 miles of shoreline along the San Francisco waterfront.

Beginning in August, 1978, the City Attorney's Office embarked on a consolidation effort to assure that all legal services required for the operation of the San Francisco Port Commission would be handled, to the extent possible, by the Port Division of the City Attorney's Office, located at the Ferry Building. That consolidation effort is now in its last phase. All that remains to be done is the reassignment to the Port Division of a number of Port related cases heretofore assigned to deputies at City Hall. Consolidation of all Port legal services at the Port Division has resulted in greater availability of legal services to Port staff and increased efficiency in the rendering of said services by the City Attorney's Office.

The principal problems faced by the Port Division of the City Attorney's Office included a lack of sufficient clerical Port staff, poor and outdated clerical equipment, lack of adequate filing facilities and the absence of adequate research materials and library facilities.

### SERVICES RENDERED

#### A. Leases, Licenses and Agreements.

The Port of San Francisco currently has in effect over 800 leases and licenses relative to the use of its properties. In addition, the San Francisco Port Commission is a party to over 100 contracts and agreements for services, repairs, maintenance, construction and other matters related to the operation of the Port of San Francisco. In many instances, these agreements and contracts are initially drafted by the Port Division of the City Attorney's Office; in all instances the Port Division of the City Attorney's Office reviews and approves as to form such agreements and contracts. This requires continual document preparation, review, revision, interpretation and enforcement. The Port Division of the City Attorney's Office has prepared a master lease form for the San Francisco Port Commission which is updated from time to time as developments in commercial leasing law and





practice dictate. Lease preparation work by the Port Division of the City Attorney's Office is accomplished with the assistance of the word processing center of the City Attorney's City Hall office, where the master lease form is kept on tape.

Sample duties in this category performed during the past year include the preparation of leases for the berthing of three historic ferryboats on the waterfront of San Francisco, which vessels will be used for office space and related commercial uses; the drafting of restaurant leases; drafting of amendments and assignments of restaurant leases, the drafting of professional services agreements for the Port. A total of approximately 55 such leases, amendments, assignments, licenses, and agreements were either drafted, negotiated, approved as to form, or enforced over the past year.

#### B. Advice and Opinions.

Another significant function of the Port Division of the City Attorney's Office is the rendering of legal advice as necessary for the daily operation of the San Francisco Port Commission. This involves all appropriate legal research of federal and state laws, the charter and ordinances of the City and County of San Francisco, all case law, and, where necessary, federal, state and local regulations. A member of the Port Division of the City Attorney's Office always attends staff meetings and all of the San Francisco Port Commission meetings. In addition to insuring that the San Francisco Port Commission complies with the laws and regulations governing conduct of public meetings, the attending deputy city attorney, when appropriate and possible, normally provides on-the-spot legal advice and guidance to the Commission. Sample tasks within this category include advice to the accounting department relative to its categorization of delinquent accounts and its billing practices relative to such delinquent accounts; advice regarding procedures and legal requirements for bid requests; advice regarding proposed charter amendments and ordinances relating to the San Francisco Port Commission.

Informal advice and opinions are requested of the Port Division of the City Attorney's Office on an average of 8 to 12 times per week. Formal written advice in the form of opinions or letters is rendered by the Port Division on an average of 1 to 3 times per week.

#### C. Litigation.

As a result of the effort to consolidate all legal services to the Port within the Port Division, the Port Division now handles substantially more litigation than ever before. When the consolidation effort is complete, the Port Division of the City



Attorney's Office will be handling the defense and prosecution of all litigation involving the San Francisco Port Commission. This involves the direction of investigative activities, discovery, pre-trial matters, trial and appeals from decisions of the trial courts. Areas of the law in which the Port Division is involved cover the entire spectrum. Sample active cases involve areas such as bankruptcy, admiralty, personal injury, wrongful death, real property, landlord-tenant, contract, and employment law. There are presently approximately 75 cases involving the San Francisco Port Commission. All these cases will be handled by the Port Division of the City Attorney's Office.

Although Port is covered, in its own right, or as the landlord of leased premises, by public liability and property damage insurance, it is often necessary for the Port Division attorneys to become involved in litigation because the insurance coverage does not apply due to a self-insured retention or because tender offers to the insurance companies and/or tenants and their insurers are not accepted by the offeree.

#### D. Claims.

For approximately one year now, work on all claims against the City arising out of the operation of the Port has been conducted by the Port Division of the City Attorney's Office. Work in this area involves the review, assessment, investigation, settlement and administration of all claims filed against the San Francisco Port Commission. Claims filed against the Port Commission generally cover the same diverse areas of the law which are the subject of the litigation presently pending against the Port Commission. In addition to requiring a working knowledge of the various substantive areas of the law in order to assess the claims against the Port Commission, it is required that the Port Division of the City Attorney's Office be knowledgeable with respect to claims procedures set forth in the California Tort Claims Act and in the Charter of the City and County of San Francisco. There are presently approximately 35 claims pending against the Port of San Francisco.

#### E. Construction Contracts.

Due to an increasing emphasis on the maritime activity within the Port, it is believed that further construction, particularly construction of container facilities in the southern waterfront of the Port of San Francisco is likely in the near future. Various contracts involved in these undertakings will require significant preparation and proper administration in order to protect the Port's interests and avoid litigation. There is already significant construction activity involving Port properties. One major project is the proposed construction of the waterfront promenade directly south of the Ferry Building-





Agricultural Building complex area. The Port Division of the City Attorney's Office has also been involved in establishing a working relationship with the legal department of the San Francisco Redevelopment Agency in expectation of a number of redevelopment projects in, around or adjacent to Port properties which will require a joint effort of both the San Francisco Port Commission and the San Francisco Redevelopment Agency.

#### F. Unlawful Detainers and Collections.

Prior to the assignment of a second attorney to the Port Division of the City Attorney's Office, a considerable backlog of work existed in these two areas. Over the past year and a half, the number of tenants unlawfully detaining Port premises has been dramatically reduced through the filing of unlawful detainer actions. The delinquency rate has likewise shown a great decrease over the last year and one half. In addition to litigation to retake premises in unlawful detainer situations and to collect money in delinquent account situations, the Port Division has been giving constant legal advice to both the Commercial Property Department and the Accounting Department of the Port of San Francisco in order to prevent situations that will lead to litigation.

#### G. Civil Service and Personnel Matters.

Port personnel matters regarding potential or actual hiring, dismissal or suspension of Port employees invariably are referred to the Port Division of the City Attorney's Office by Port management. Port Division attorneys insure that the Port management receives proper legal assistance and that the personnel are afforded the due process safeguards to which they are entitled. Examples of past and current endeavors in this category include the rendering of advice relative to the proposed hiring of a new maritime division chief for the Port and the successful representation of the Port in a lawsuit brought by six custodians who were dismissed from their jobs when the Port contracted out its custodial work.

#### H. Governmental Matters.

The San Francisco Port Commission and its maritime tenants are generally subject to the Shipping Act of 1916 and the regulations of the Federal Maritime Commission. Certain aspects of Port operations also fall within the jurisdiction of the Maritime Administration of the U.S. Department of Commerce. Still other matters relating to Port operations fall within the jurisdiction of the Interstate Commerce Commission. The City Attorney must assure compliance with laws and regulations promulgated under the authority of these and other agencies having jurisdiction over various Port operations. Sample duties in this



category have included the filing of all maritime agreements with the Federal Maritime Commission, the filing of petitions for investigation and suspension of certain proposed tariff increases requested by railroads servicing the Port of San Francisco and filing of a request for denial of an application for special permission filed by the Transcontinental Freight Bureau with the Interstate Commerce Commission in Washington, D.C.

Other governmental matters requiring the attention of the Port Division of the City Attorney's Office include the review of all federal regulations and legislation which may have an affect upon the Port, its operations or its tenants; the review of all state law, regulations and legislation affecting the operation of the Port of San Francisco; and, the review of all regional and local regulations and legislation affecting Port operations. Sample duties within this category include a comprehensive review and summarization relative to the Omnibus Maritime Regulatory Reform, Revitalization and Reorganization Act of 1979 currently being considered by Congress; ongoing advice to staff and commission members regarding the conflict of interest requirements of the applicable state and city conflict of interest laws; and, advice regarding the effect of the Gann Initiative on the Port's fiscal policies. Other governmental work has included working closely with the City Planning Commission, the San Francisco Redevelopment Agency, and the Bay Conservation and Development Commission.

The Port General Counsel also sits on the Law and Legislation Committee of the California Association of Port Authorities and the American Association of Port Authorities.





VIII. AIRPORT SECTION



## VIII. AIRPORTS DIVISION

### 1. General.

The Airports Commission is established and created by Section 3.690 of the Charter to operate and manage San Francisco International Airport.

Deputies of this Office are specifically designated by the City Attorney to serve as legal advisors to the Airports Commission and its staff. These deputies, currently four in number, are involved in the furnishing of legal services on a daily basis with respect to the varied and complex operations at San Francisco International Airport.

In order to maximize the delivery of these legal services, the four deputies are located at the Airport. Initial inadequacies as to office space, secretarial help, equipment, and law library have for the most part been overcome and we are pleased to report that the Airports Division is functioning very effectively. The following are specific examples of the services rendered by the Airports Division during fiscal year 1979-80.

### 2. Services Rendered.

#### a. Joint Powers Authority.

As you know, the Airport has been exploring means of providing funds to the City general fund. One proposal was to create a joint powers authority, which would lease the Airport from the City and County, with lease payments being to the general fund. The Airports Division did extensive legal research and prepared many drafts of documents during the exploration of this concept.

#### b. Leases, Permits and Concession Agreements.

The North Terminal opened in the Spring of 1979. Since that time, the Airports Division has been engaged in drafting concession agreements and related documents for the many new concessions which will operate in the North Terminal. In addition, several agreements for concessions in the Central and South Terminals expired and the Airports Division prepared new agreements and related documents for exiting concessions and some new concessions.

As a general matter, the Airport's Property Management Division administers over 300 leases, permits and concession agreements with airlines, firms and governmental agencies. These require continual legal services with respect to document review, revision and interpretation.



c. Claims and Litigation.

Of major interest, of course, is the litigation instituted in Federal and State Courts by various airlines. This litigation seeks a sum estimated at approximately \$50 million because of alleged illegal diversions of interest to the City's general fund from the Airports Revenue Fund and various revenue bond funds. This Office is working closely with the outside counsel retained by the City to defend this litigation. Due to these efforts, the Federal District Court dismissed the suit in Federal Court. This decision is now being appealed by the airlines.

The construction of the Public Parking Garage has resulted in one suit claiming \$3 million in damages and one claim asserting damages in the sum of \$16 million. The Airport staff is working closely with the outside counsel retained to handle these two very complex matters.

In addition, the Airports Division reviews and assists in the handling of all claims for personal injury and property damage and in the handling of the defense of all litigated claims.

d. Construction Contracts.

The Airports Modernization and Replacement Phase involves the awarding of numerous contracts for work to be done in the Central and South Terminals. In addition, contracts have been awarded for runway repair and other projects. The Airports Division assists in the preparation of and reviews each of such contracts. Once a construction contract is awarded, the Airports Division is called upon almost daily to assist in the administration of the contract.

e. Dismissal and Suspension Proceedings.

Airport personnel matters involving potential and actual dismissal and suspension hearings require the close attention of the Airports Division and the giving of legal advice to the Airport's Personnel Bureau to guarantee that the personnel involved are afforded due process safeguards and that in each instance all relevant facts are presented.

f. Revenue Bonds.

The Airports Division functions as associates to bond counsel and act as liaison with financial consultants with respect to revenue bond problems. During the past fiscal year, a great deal of the Airports Division's time was devoted to the legal issues involved in financing capital improvements through a non-profit corporation.





g. Environmental Matters.

In connection with the Airport's. Modernization and Replacement Phase, the Airports Division has been required to review and advise the Airport as to the applicability of the California Environmental Quality Act and the National Environmental Protection Act.

Likewise, the Airports Division maintains close contact with the Airport Sound Abatement Center and noise monitoring system to assure compliance with legal requirements of State and Federal noise regulations.

The Airports Division prepared and filed with the U.S. Supreme Court an amicus curiae brief in support of the City of Los Angeles' Petition for Hearing in Greater Westchester Homeowners Ass'n v. City of Los Angeles. The decision of the California Supreme Court in this case imposed liability upon Los Angeles under a nuisance theory for physical and emotional injuries allegedly caused by aircraft using Los Angeles International Airport. The U.S. Supreme Court has not yet acted on the Petition for Hearing. The outcome of this will be of significance to San Francisco as it may result in an untold number of lawsuits alleging physical and emotional injuries claimed to have been caused by aircraft operations from the Airport.

h. Opinions and Advice.

The varied operations of the Airport require that the deputies attend numerous staff meetings to assist Airport management with the legal aspects of policy and operational decisions. Likewise, a member of the staff attends each meeting of the Airports Commission.

Opinions and advice are rendered to the Airports Commission and its staff on a daily basis to assist them in managing the many different activities involved in the operation of the Airport.





IX. CODE ENFORCEMENT SECTION



## IX. CODE ENFORCEMENT SECTION

Code Enforcement activities include enforcing codes by court action, defending city officials in suits brought to prevent code enforcement, advising city departments involved in code enforcement and drafting legislation involving code enforcement.

### ABATEMENT CASES

There are approximately 103,389 structures for single family occupancy, 20,188 structures for 2-family occupancy and 174,775 dwelling units in structures for 3 or more family occupancies in the City and County of San Francisco and a large number of commercial structures. From time to time, the condition of some of these properties falls below the minimum standards for housing as established by the San Francisco Housing Code or other codes regulating the use or condition of property in the City and County of San Francisco. When these properties have fallen below the standards required, the various regulatory departments of the City commence administrative action to secure compliance with the minimum standards required by the codes. In a number of cases, code compliance cannot be secured through the administrative procedure and those cases are referred to the City Attorney's office for court action to abate the substandard or illegal condition of the property. These cases are known as abatement cases and are the primary activity of the Code Enforcement Section of the City Attorney's office.

There are also a considerable number of abatement cases filed each year to enforce the provisions of the City Planning Code. These cases normally involve illegal dwelling units which violate the uses set forth in the applicable zoning districts. Other cases may be filed to rid a residential neighborhood of commercial uses.

### NEW ABATEMENT CASES RECEIVED DURING YEAR

During the year 200 new abatement cases were sent to this office from various City departments for legal action.



NEW CASES 1979-1980

DEPARTMENT OF CITY PLANNING	3
RAP PROGRAM	40
DEPARTMENT OF PUBLIC WORKS	156
FIRE	1
TOTAL	<hr/> 200

The Federally Assisted Code Enforcement Program (FACE) is a federally funded program wherein building-by-building inspections are made in certain designated areas of the City. If code violations are found to exist in a building, the owner may apply to the federal government for financial assistance in the form of low interest loans and grants to finance the necessary corrective work. The FACE Program is currently being phased out and will be replaced by a City funded Rehabilitation Assistance Program (RAP).

RAP, as established by Chapter 32 of the San Francisco Administrative Code, combines, on a limited-area basis, concentrated building and housing code enforcement with long term, low interest-rate loans to property owners and appropriate public improvements.

ENFORCEMENT ACTIVITIES

Superior Court Actions were filed during the year against 183 properties.

SUITS FILED 1979-1980

DEPARTMENT OF CITY PLANNING	3
DEPARTMENT OF PUBLIC WORKS	132
FACE PROGRAM	8
RAP PROGRAM	39
FIRE DEPARTMENT	1
TOTAL	<hr/> 183





During the year, 40 trials and 86 default hearings were set on abatement cases resulting in injunctions in favor of the City ordering the owners to correct code violations. To enforce outstanding injunctions, owners are brought before the court on orders to show cause re contempt. During this year, this office handled 520 scheduled contempt appearances.

Enforcement by contempt requires a large amount of clerical and administrative time and 8 to 10 court appearances on the average for each case. It is, however, very effective, as construction is under way in earnest on the pending contempt cases. In the great majority of these cases the first or second court appearance is sufficient to motivate the owner to commence the repair or demolition of the building. In a few cases during the year, unfortunately, it has been necessary to prosecute the owners for contempt and seek fines and imprisonment in an effort to obtain compliance.

Owners of 6 properties were prosecuted for contempt. All of the owners prosecuted were fined and ordered committed to the county jail until compliance with the court order. These jail commitments were stayed, however, so long as work was in progress to make the required repairs.

In some cases, the only resolution of the problem is for the City to demolish the structure. The cost of demolition is added to the taxes as a special assessment pursuant to the provisions of the San Francisco Municipal Code and Government Code.

#### CASES TERMINATED

During the year, 222 cases were terminated. Cases were terminated because owners corrected the illegal conditions, demolished the structure, or, for other reasons, primarily, by dismissals of pending deferred cases by reason of the statute of limitations on summonses and judgments. This latter type of closeout occurs where work is going on, and this office is advised to defer legal action, and while the case is deferred the statute of limitations runs on the abatement case. These cases are then closed out and sent back to the referring department with the instructions to return them in the event corrective work stops. Almost without exception, work on such cases is continued to completion without re-referral to the City Attorney.





Terminations 1979-1980

	<u>No. of Cases</u>	<u>Demolition</u>	<u>Correction</u>
Department of Public Health	0	0	0
Department of Public Works	132	9	116
FACE Program	31	0	116
RAP Program	25	2	23
City Planning	29	3	12
Fire Department	5	1	4
<u>TOTAL</u>	222	15	185

Terminations By Dwelling Units

	<u>No. of Cases</u>	<u>Dwelling Units</u>	<u>Other Type Structure</u>
Rehabilitation	185	957	326
Demolition	17	49	38
<u>TOTAL</u>	202	1,006	364

Ninety of the cases that were closed during the year had progressed far enough to entitle the City to costs. Motions for final judgment were made on these cases resulting in judgments in favor of the City in the amount of \$7,473.37. Much of this amount has been collected and deposited in the general fund. The average cost to the City per case is \$75.00 to \$100.00 to file and serve summons and complaint, and \$75.00 to \$150.00 if the case goes to trial.

SUMMARY AND END OF THE YEAR INVENTORY

The case inventory list discloses that there are presently pending 482 litigated cases and 280 non-litigated, for a total of 762.



Year-End Summary of Pending Cases

	<u>Litigated</u>	<u>Non-Litigated</u>	<u>Total</u>
Department of Public Health	1	1	2
Department of Public Works	347	210	557
FACE Program	28	3	31
RAP Program	39	53	92
City Planning	65	11	76
Fire Department	1	2	3
DPW/CP	1	0	1
<u>TOTAL</u>	482	280	762

ADVICE TO CITY DEPARTMENTS  
INVOLVED IN CODE ENFORCEMENT

This office assists the Department of Public Works by providing legal advice as needed.

Attorneys provide legal advice to the City's Federally Assisted Code Enforcement Program (FACE) and the Rehabilitation Assistance Program (RAP). The kinds of advice included interpreting contracts, advice as to public finance of bonds, resolving mechanic's lien problems, tax liens, levies, approving the form of FACE and RAP loan documents and preparation of legal opinions.

This office advises the Zoning Administrator on interpretations of the City Planning Code with reference to zoning violations, variances and conditional use authorizations from time to time as needed.

On a number of occasions, upon request, Deputy City Attorneys appeared at administrative hearings before the Director of Public Works and the Director of Public Health to give advice during the course of the hearing.



During the course of the year the staff handled literally hundreds of informational calls referred by other departments to the City Attorney involving the status of abatement cases, code problems, condition of property and other related questions from attorneys, property owners, citizens, community groups and the media.

### LEGISLATION

This office assisted the Board of Supervisors, the Department of Public Works, the Fire Department and the Department of City Planning in interpretation and preparation of State and local legislation affecting code enforcement and land use in a wide range of areas.

### CONDOMINIUM CONVERSION

This office has actively participated in amending and interpreting Chapter IX of the Subdivision Code dealing with the regulation of condominium conversions. Amendments were enacted in July, 1979, and since that time, this office has been assisting the Department of City Planning, the City Planning Commission and the Department of Public Works in the application of said amendments to condominium conversion problems. This assistance includes telephone calls, letters and research for City agencies as well as general information provided to attorneys, subdividers and tenants involved in condominium conversions. Cooperation with officials of the California Department of Real Estate is essential and has been developed.

Additional amendments to the Subdivision Code are now being proposed. This office is again involved in drafting and approving said amendments as well as researching the validity of language and policy which the City Planning Commission seeks to implement.

Law suits have also been filed by subdividers and tenants against the City, thus involving this office in litigation concerning the interpretation of the Subdivision Code requirements and the conditions imposed by tentative map approvals.



X. SPECIAL PROJECTS DIVISION





## X. SPECIAL PROJECTS DIVISION

The function of this Division is to provide fulltime legal assistance and monitoring to complex projects which are of particular importance to the City and County. These projects include the Clean Water Program, the Rehabilitation Assistance Program, the Housing Improvement Program, the Parking Authority, and Solid Waste Management. These and other projects require daily legal review and participation from staff members qualified to identify problems that may arise and who are capable of recommending the necessary preventative action.

The Special Projects Division must also prepare opinions, review contract and bidding requirements and procedures, coordinate functions with various state and federal agencies, and participate in court litigation on the projects. This necessarily involves review of bond resolutions, official statements prepared for the sale of bonds and all other matters relating specifically to project funding.

### CLEAN WATER PROGRAM

The Clean Water Program (formerly the Wastewater Program) is the largest construction program that the City has embarked upon. Currently, for the Phase II portion, the estimated construction cost is \$1,600,000,000.00, of which \$300 million has been expended for construction underway and completed. The Special Projects Division is monitoring eight (8) construction contracts that are underway. In addition, five (5) contracts where construction is completed still involve legal services for extras claimed by the contractors for work that they claim was not covered by the original contract documents. During the next fiscal year it is anticipated that construction contracts for the Westside Transport System will be bid and awarded, as well as the contract for the construction of the Southwest Ocean Outfall Project.

Two (2) new contracts were awarded during the fiscal year 1979-1980 for the construction of tunnels under Fort Mason and North Point Street. One of the contracts, which involves the Embarcadero, resulted in two (2) hearings before the Bay Conservation and Development Commission to provide for continued traffic flow on the Embarcadero due to peculiar construction problems relating to the construction of a large concrete structure partially within the roadway of the Embarcadero.

In addition to the construction program, numerous meetings and hearings have been attended before the Board of Supervisors



and the Regional Water Quality Control Board concerning the progress of the City's program.

Currently there are twelve (12) cases pending directly against the Clean Water Program involving personal injury and property damage caused by operations of the program and claims for inverse condemnation for damage to property as a result of construction activities. In addition to the lawsuits filed, three (3) construction contractors have filed demands for arbitration which they are entitled to do under the general conditions of the Environmental Protection Agency, which must be attached to each construction contract as part of the Grant program. One of these has been determined with an award of \$12,000 after an initial demand of \$120,000 to settle the case. Two (2) other matters are still pending before the Construction Industry Arbitration Tribunal of the American Arbitration Association.

Two (2) lawsuits which were filed during the previous fiscal year seeking to invalidate the sewer service charge and prevent future expenditures by the City on the Clean Water Program were concluded. The larger hotels in San Francisco filed the suits, both in the federal court and the state court, on a claim that the sewer service charge violated provisions of the Clean Water Act. Both suits were successfully terminated in favor of the City.

The Clean Water Program is funded in part by revenue bonds issued by the City and County of San Francisco, together with grants received from both the state and federal governments. A consistent recurring problem is one of grant eligibility in securing maximum participation on behalf of state and federal governments in the program. During this fiscal year, similar determinations were made by the State of California in administering the grants program denying eligibility on certain consultant contracts that the City has with the construction consultants. As a result, this Division has filed appeals with the EPA in Washington, DC which involved the review of the applicable federal regulations and the production of documents to justify these expenses as program related and grant eligible. A final determination of these appeals will not occur until the next fiscal year.

A new Sewer Service Charge Resolution was prepared by this Division for introduction to the Board of Supervisors to pay for the cost of operating and maintaining the system, as well as to provide funds for the repayment of general obligation and revenue bonds previously issued by the City.





This Division, in consultation with the manager of the Clean Water Program and the City's bond counsel, assisted in the preparation of the various legal documents for the issuance of Series B Sewer Revenue Bonds. The sale of the bonds has now been authorized by the Board of Supervisors and further legal review of the Official Statement will be needed during the next fiscal year.

During this fiscal year, it was necessary for this Division to spend numerous hours meeting with the managers of the program to assist them in the preparation of hearings before the Regional Water Quality Control Board on modifications for the Cease and Desist Orders that had been issued by the Board to compel the City to complete the program. Commencing with a meeting in December 1979, this Division participated in monthly hearings before the Regional Water Quality Control Board on enforcement activities against the City to require the City to complete its program.

Further, civil litigation is still being threatened by the regulatory bodies, including the Regional Water Quality Control Board, the State Water Resources Board and the United States Environmental Protection Agency.

#### SOLID WASTE MANAGEMENT PROGRAM

The City and County of San Francisco has designated the Sanitary Fill Company as the disposer of solid waste collected in San Francisco. At the present time, the solid waste is trucked to Mountain View where it is being placed in landfill. This site will be available to San Francisco until October of 1983.

As a consequence, the Sanitary Fill Company has submitted a proposal to the City and County of San Francisco to dispose of the City's solid waste by using a waste-to-energy process.

This Division has been assigned to review all of the contracts, permits, bond requirements and environmental matters that will arise as a result of City review of the project.

Resolutions have been prepared, a draft EIR reviewed and contracts for consultants have been prepared. It is anticipated that extensive legal work will be required in the next fiscal year on preparation of contracts, rate review and legal research on funding the construction cost of the proposed facility.



## REHABILITATION ASSISTANCE PROGRAM

The Residential Rehabilitation Assistance Program (RAP) has been underway for a number of years in San Francisco in two (2) designated areas: the Inner Richmond and the Upper Ashbury. During this fiscal year, the City sold \$9.1 million of Residential Rehabilitation Revenue Bonds, the proceeds of which are being used to fund rehabilitation loans in these areas. The Special Projects Division reviewed the summary of financial information, the bond resolution, and other documents necessary for the sale and delivery of the bonds. This Division continued to work on the North of Market area to determine the best way to finance rehabilitation housing in this area.

In order to properly assist the departments in carrying out the RAP Program, the Division also participated in numerous meetings with staff to advise them on a variety of legal issues including those relating to promulgation and revision of RAP Rules, loan agreements, construction contracts, relocation benefits, and elections for members of the Citizens Advisory Committees.

This Division continued to work on various pieces of legislation pending in the United States Congress which would drastically revise the law relating to the use of tax-exempt bonds for housing in programs such as RAP.

At the request of a member of the Board of Supervisors this division drafted ballot provisions which authorized the City to issue Mortgage Revenue Bonds.

## PARKING AUTHORITY

The Special Projects Division is counsel for the San Francisco Parking Authority. A Division attorney attends the monthly meetings of the Parking Authority and the Division reviews Authority contracts and leases and answers any legal questions which may arise.

This division is currently working with the Parking Authority in drafting all of the legal documents and necessary resolutions and ordinances to provide for the construction of a new garage in the vicinity of the George R. Moscone Convention Center.

In addition, this Division has been working with the Parking Authority in the drafting of legal documents, ordinances and resolutions for the construction of the Performing Arts





Center Garage. The litigation challenging the authority of the City and the Parking Authority to construct the garage was successfully terminated with an opinion by the Court of Appeal confirming the right of the City to enter into the lease-revenue mechanism to pay for the cost of the improvements.

During this current fiscal year, this Division, in cooperation with the Parking Authority and the Mayor's Office, has been acting to obtain surplus funds from the various non-profit garage corporations operating within the City. As of this date, one of the garages has forwarded to the City the sum of \$1,132,777.07 for use by the City during the next fiscal year. This Division will closely work with the Parking Authority and the Mayor's Office to assure that the surplus revenue of various non-profit garage corporations can be transferred to the City's general funds.

#### HOUSING IMPROVEMENT PROGRAMS

This division answered various legal questions relating to HIP, including those involving election procedures for the Citizens Advisory Committee.



XI. DEPARTMENT OF SOCIAL SERVICES DIVISION



## XI. DEPARTMENT OF SOCIAL SERVICES DIVISION

A comprehensive range of services are provided to the people of San Francisco through the Department of Social Services. These programs and the administration of department as a whole are subject to federal and state statutes and regulations, the Charter and codes of the City and County of San Francisco, and decisions of the courts.

It should readily be apparent that the Department of Social Services, with the responsibility for almost 2000 employees, and a budget of \$127,000,000.00 is in the position of requiring constant and comprehensive legal services. These services, as detailed below, are provided by the City Attorney's Office, through the Deputy City Attorneys and paralegal staff assigned full-time to the Social Services Division, in coordination with the general legal services provided by the main office of the City Attorney.

### LEGAL ADVICE AND OPINIONS

Problems, both large and small, are encountered on a daily basis by the Social Services Commission, the administration, and the staff of DSS. With the provision of services to the citizens of San Francisco, the Department comes up against problems of confidentiality, enforcement of the laws and regulations effecting these programs, and compliance with the dictates of the federal and state's funding sources.

In order to provide the legal advice to contend with these problems, the division staff are required to maintain an ongoing awareness of the most current statutes and regulations governing social service programs, and the case law that affects them.

This office also provides legal advice and counsel to the Social Services Commission, which has the responsibility for the administration of the Department. The senior Deputy City Attorney attends each meeting of the Social Services Commission, and provides them with legal advice on matters of procedure and policy which help facilitate the commissioners' direction of the Department on a daily as well as long range basis.

The programs and services provided by the Department of Social Services interact with many other city agencies, i.e. Director of Purchasing, Controller, and Mayor's Office, and the Board of Supervisors. The Social Services Division consults with and provides legal advice to these agencies, in conjunction with the main office of the City Attorney, to help coordinate the interconnected functions of these city departments.





The administration of the services and programs mentioned herein require the department's compliance with statutes and regulations of both the federal and state governments, provisions of the City Charter and Administrative Code, and case decisions. It is important for the operation of the Department that these interwoven controlling factors be understood and properly applied by the DSS staff. To this end, this office provides training sessions and writes memoranda to inform the staff and administration of the legal responsibilities of these procedures.

One area where the City Attorney's Office has supplied assistance is the issue of the confidentiality of public records. Recent amendments to the Welfare and Institutions Code, and court decisions regarding public records have required that this division meet with the administration, and prepare memoranda, available to the staff of DSS, which define the scope of these statutes and case law, and instructs department personnel on how to conduct themselves in matters involving the records of DSS recipients.

Pending legislation and proposed regulations pertaining to social services are reviewed and summarized by this division to keep the Department of Social Services advised of their obligations.

Litigation pending in other jurisdictions that is of interest to this Department is followed closely by this office, and communication with other county counsel, District Attorneys' Offices, the state and federal Attorneys General Offices, and private attorneys is maintained to insure that the Department is kept up-to-date in all legal areas of social services.

### CONTRACTS

It is necessary for the Department of Social Services, in order to provide the extensive number of service programs mandated by federal and state law, to contract with outside providers for the provision of these services to the citizens of San Francisco.

The legal advice and consultation involved in these contracts includes contact with the other city agencies involved in the municipal contracting process. This division therefore has worked closely with the staff of the Purchaser to draft invitation for bids, contracts, and required bid information for Food Stamp and the Homemaker Chore Services contracts. These contributions were later incorporated into state regulations in these fields. The division provides consultation in the drafting





of all contracts, and approves same as to form. All litigation arising out of such contractual services is handled by this division.

### CHILD WELFARE SERVICES

The Department is in the position of having primary responsibility for children in both in-home supervision, and out-of-home placement situations. The Department is responsible for providing protective services to children, family reunification programs, actions to free children for adoption, adoption services and other long-range planning to improve the quality of the lives of children dependents of the Juvenile Court and non-dependents.

This office provides legal advice to the Department throughout all Juvenile Court dependency actions, and legal representation in all contested actions. Legal advice and services are given to the Department during detention proceedings to determine if the child requires immediate protective custody, and during jurisdictional hearings to determine whether the child should be made a dependent of the Juvenile Court. Legal advice and representation is also provided for dispositional hearings to decide whether the child should have in-home supervision or out-of-home placement, and for annual status review hearings to determine whether continued supervision by the Juvenile Court is necessary and legally proper.

A petition to modify or terminate a dependency order may be brought by DSS, the parent, or any interested person who feels that the modification would be in the best interest of the child. The deputies in this division provide advice on the petition, and representation if the petition is contested.

With the responsibility for these dependent children comes the necessity for the Department to provide service and assistance for their care. DSS's licensing of day care, foster care, and mental hygiene facilities, and its provision of financial assistance through programs including AFDC, AFDC-BHI, Aid for Adoption, Medi-Cal and others produces legal questions, and sometimes results in litigation, which require advice and representation from the City Attorney's Office to help facilitate the provision of quality services for these children.

In all actions to terminate parental rights, and to free children for adoption, brought under the Freedom from Parental Custody and Control Act (CC 232, et seq.), and the Uniform Parentage Act (CC 7000, et seq.), this office provides the Department with legal advice and representation in Superior Court.



As of June 1, 1980, the legal staff of this division assumed the responsibility of providing legal advice and representation to the Juvenile Probation Department, Children's Emergency Services Division. This agency investigates reports of abuse and neglect of children in the community and petitions the Juvenile Court on behalf of the child if dependency action is necessary to insure the child's protection. If the Juvenile Court assumes jurisdiction of the child by declaring dependency, the Court will usually commit the child to DSS for either supervised placement in the home of the parents or out-of-home placement. Because the action frequently results in the initial removal of the child from the custody of the parents, such proceedings are vigorously contested by the parents, resulting in lengthy and sometimes complex litigation.

### ADULT SOCIAL SERVICES

Title XX of the Social Security Act requires that the Department provide social services for aged, blind, and disabled applicants, and recipients of federal and state financial assistance. These services include Protective Services for Adults, In-Home Supportive Services, Out-of-Home Services, Health Related Services, and Special Services for Developmentally Disabled. The Department also provides licensing services for both residential care homes for the elderly, and community care facilities for the developmentally and mentally disabled.

The Adult Services Division of DSS is responsible for the administration of these programs, including compliance with governmental regulations, and overseeing of services provided by outside providers, and this office provides advice as to the legal status of the Department's activities.

State statutes also make the Department responsible to pursue conservatorship or guardianship for individuals who are incapable of handling their own affairs, or taking care of their own persons, and the City Attorney's Office is required to provide representation in these actions on behalf of the recipient.

### WRITS

Recipients of the services of the Department of Social Services are given the right by state statute to contest, through a fair hearing procedure, any action taken against them. A good many of these fair hearings are for accusations of fraudulent misrepresentation by the recipient. When the State Department of





Benefit Payments referees rule against the Department, this office must often seek a judicial review of the decision under Code of Civil Procedure Section 1085, or Section 1094.5, in order to protect the City and County's ability to collect these claims through criminal prosecution and civil actions.

When the state referees rule in favor of the Department at a fair hearing, often the recipient will petition the court for judicial review of the state's ruling. In these cases, this division often files a complaint in intervention to make sure that the County's interest in the matter is brought to the attention of the court.

This office's counsel must provide legal representation for the Department on all writs or injunctions sought against DSS, as well as pursue whatever extraordinary relief remedies are necessary to compel funding sources and other governmental bodies to assist or cease interference with the Department's ability to provide legally mandated services.

### CLAIMS

Each year the Department of Social Services processes thousands of claims against recipients. These claims are based on fraudulent representation of eligibility requirements, liens against after acquired property of General Assistance recipients, receipt of duplicate aid, etc.

Currently, the Department has over 6,500 outstanding claims amounting to between four and five million dollars in favor of the City, with an extensive amount of claims still to be computed.

Through frequent meetings between this division and the Collections, Overpayment, and Special Investigations Units of DSS, the method of referring cases of fraudulent overpayment to this office for possible civil action has improved, and we are now receiving about thirteen referrals a month.

In response to these referrals, this division provides the legal advice and representation necessary to protect the City's interest in these claims. These services include determination on the legal sufficiency of each claim, the filing of and legal representation in civil actions brought against recipients who have committed fraud, negotiation of settlements of uncontested claims, and the giving of advice and assistance to the Department on the procedures for executing on judgments obtained through civil actions. The City Attorney's Office provides representations of DSS in U.S. Bankruptcy Court by bringing actions to have these claims declared nondischargeable when recipients file for bankruptcy.



Between July, 1979, and June, 1980, our office filed fraud and bankruptcy actions to protect the Department's interest in claims totaling \$175,712.00. In that time, we have gotten judgments and negotiated settlements amounting to \$70,585.57. Civil actions on fraud referrals totaling \$97,450.93 have been deferred as a result of contracts to repay having been executed between the Department and the recipients prior to the filing of civil actions. These secured claims will be reviewed relative to their statutes of limitations to determine if the terms of the contract are being complied with, or if civil action is necessary to protect the claim.

### LITIGATION

As seen in each of the above sections, the City Attorney's Office provides complete legal representation in all original and appellate litigation that arises from the wide range of social programs administered by the Department of Social Services, as well as the on-going litigation that revolves around the collection of fraudulent overpayments to program recipients.







DOCUMENTS DEPT.

JAN 12 1982

SAN FRANCISCO  
PUBLIC LIBRARY

ANNUAL REPORT OF THE CITY ATTORNEY

CITY AND COUNTY OF SAN FRANCISCO

JULY 1, 1980 - JUNE 30, 1981

GEORGE AGNOST

CITY ATTORNEY



ANNUAL REPORT OF THE CITY ATTORNEY  
CITY AND COUNTY OF SAN FRANCISCO

JULY 1, 1980 - JUNE 30, 1981

GEORGE AGNOST  
CITY ATTORNEY



## TABLE OF CONTENTS

	<u>Page</u>
I. LITIGATION	1
1. Litigation Concluded in Fiscal Year	2
Tort Litigation	2
Nontort Litigation	2
Abatement Actions	3
Workers' Compensation and Subrogation Proceedings	3
STATISTICAL SUMMARY	4
II. APPELLATE LITIGATION	14
III. LEGISLATIVE SECTION	19
Board of Supervisors	20
IV. PUBLIC UTILITIES SECTION	23
Hetch Hetchy Power and Water Supply	24
San Francisco Water Department	25
The Municipal Railway	26
V. RETIREMENT BOARD	28
Retirement Board Hearings and Other Legal Matters	29
Court Litigation	29
State Workers' Compensation Appeals Board Proceedings and Suits in Intervention	30





## TABLE OF CONTENTS

	<u>Page</u>
VI. RATE SECTION	32
Telephone Refunds	33
Energy Utilities	33
Other Departments	34
VII. PORT DIVISION	35
Introduction	36
Services Rendered	36
A. Leases, licenses and other agreements	36
B. Advice and opinions	37
C. Litigation	37
D. Claims	38
E. Construction Contracts	38
F. Unlawful Detainers and Collections	38
G. Civil Service and Personnel Matters	39
H. Governmental Matters	39
VIII. AIRPORTS DIVISION	41
General	42
Services Rendered	42



## TABLE OF CONTENTS

	<u>Page</u>
A. Joint Powers Authority	42
B. Leases, permits and concession agreements	42
C. Claims and litigation	43
D. Construction and professional services contracts	43
E. Dismissal and suspension proceedings	44
F. Revenue bonds	44
G. Environmental matters	44
H. Opinions and advice	45
IX. CODE ENFORCEMENT SECTION	46
Abatement Cases	47
New Abatement Cases Received During Year	48
Enforcement Activities	49
Suits filed 1980-1981	49
Cases Terminated 1980-1981	50
Summary and End of The Year Inventory	51
Advice to City Departments Involved in Code Enforcement	52
Legislation	52
Condominium Conversion	52



## TABLE OF CONTENTS

	<u>Page</u>
X. SPECIAL PROJECTS DIVISION	54
Clean Water Program	55
Solid Waste Management Program	57
Office of Community Development	57
Rehabilitation Assistance Program	59
Economic Development Council	60
Parking Authority	61
XI. DEPARTMENT OF SOCIAL SERVICES DIVISION	62
Legal Advice and Opinions	63
Contracts	64
Child Welfare Services	64
Adult Social Services	65
Administrative Proceedings	66
Fraud Claims	66
XII. FIVE YEAR STATISTICAL SUMMARY	68
Appendix A-E	69



I. LITIGATION





## I. LITIGATION

The City Attorney's Office handles civil litigation involving the City and County, the San Francisco Unified School District and the Community College District.

### 1. LITIGATION CONCLUDED IN FISCAL YEAR

1,481 actions were concluded during the 1980-81 fiscal year as follows:

Tort Actions	757
Nontort Actions	164
Abatement Actions	123
Workers' Compensation and Subrogation Actions	422
Appellate Litigation	15
Total	1,481

#### Tort Litigation

757 tort actions concluded sought damages for injuries to persons and property and for death.

See Table 1 at the end of this chapter for summary of tort actions concluded.

See Table 2 at the end of this chapter for summary of departments, judgments paid, settlements and cases won or dismissed.

#### Nontort Litigation

164 nontort actions concluded were writ proceedings (mandamus, prohibition, certiorari), contract, eminent domain, tax, antitrust and injunction actions.

See Table 3 at the end of this chapter for summary of departments involved.



### Abatement Actions

123 actions concluded were actions taken to abate nuisances from violations of building, health, housing and related laws and ordinances, instituted after unsuccessful efforts of the departments concerned to eliminate the nuisance.

See Chapter IX of this report for details.

### Workers' Compensation and Subrogation Proceedings

Proceedings before the Workers' Compensation Appeals Board concern applications filed by employees of the City, School District and the Community College District for injuries or death incurred within the scope of employment. The office attended 802 hearings relating to 700 applications.

See Chapter V of this report for details.



## STATISTICAL SUMMARY





TABLE 1

SUMMARY OF 735 TORT ACTIONS  
CONCLUDED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Cases</u>	<u>Judgments Paid</u>	<u>Litigated Settlements</u>	<u>Won or Dismissed</u>
AIRPORT	8	0	6	2
ASIAN ART MUSEUM	1	0	1	0
COMMUNITY COLLEGE DIST.	2	0	1	1
ELECTRICITY	5	1	2	2
FIRE DEPARTMENT	8	2	6	0
HEALTH	13	1	5	7
HETCH HETCHY	5	0	3	2
MUNICIPAL COURT	1	0	1	0
MUNICIPAL RAILWAY	416	28	283	105
PLANNING	1	0	0	1
POLICE	57	3	31	23
PORT COMMISSION	11	1	9	1
PUBLIC DEFENDER	1	0	1	0
PUBLIC UTILITIES COMM.	1	0	0	1
PUBLIC WORKS	121	8	71	42
RECREATION & PARK DEPT	18	2	8	8
RETIREMENT	9	0	9	0
SHERIFF'S DEPT	5	0	2	3
SOCIAL SERVICES	24	0	4	20
SUPERIOR COURT	1	0	1	0
UNIFIED SCHOOL DIST	31	1	20	10
WATER	18	1	9	8
 TOTAL	 757	 48	 473	 236



TABLE 2

TORT ACTIONS CONCLUDED 735  
 FISCAL YEAR 1980-81  
DEPARTMENTS-AMOUNTS PAID

<u>Department</u>	<u>No. of Cases</u>	<u>Prayers</u>	<u>Amount Paid</u>
AIRPORT	8	303,700	12,500
ASIAN ART MUSEUM	1	-7,520	-1,000
COMMUNITY COLLEGE DIST.	2	65,980	6,400
ELECTRICITY	5	73,870	2,390
FIRE	8	2,035,567	62,108
HEALTH	13	6,479,745	433,490
HETCH HETCHY	5	33,600	1,700
MUNICIPAL COURT	1	25,100	100
MUNICIPAL RAILWAY	416	43,237,112	2,872,878
PLANNING	1	1,000,000	
POLICE	57	17,193,983	274,162
PORT COMMISSION	11	6,681,085	94,390
PUBLIC DEFENDER	1	-2,700	-1,300
PUBLIC UTILITIES COMM.	1	100,000	
PUBLIC WORKS	121	19,493,826	1,237,714
RECREATION & PARK DEPT	18	9,457,740	222,985
RETIREMENT	9	-121,490	-77,958
SHERIFF'S DEPT	5	995,250	26,000
SOCIAL SERVICES	24	501,700	
SUPERIOR COURT	1	1,718	1,000
UNIFIED SCHOOL DIST	31	3,362,237	69,742
WATER	18	10,318,508	23,331
 TOTAL	 757	 \$ 121,360,721	 \$ 5,340,890



TABLE 3

SUMMARY OF 164 NONTORT ACTIONS  
CONCLUDED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Actions</u>
ASSESSMENT APPEALS BOARD	1
ASSESSOR	4
BOARD OF PERMIT APPEALS	3
BOARD OF SUPERVISORS	9
CHIEF ADMINISTRATIVE OFFICER	1
CITY PLANNING	6
CIVIL SERVICE COMMISSION	7
CLEAN WATER	1
COMMUNITY COLLEGE	2
CONTROLLER	5
COUNTY CLERK	4
DISTRICT ATTORNEY	1
FIRE	2
HEALTH SERVICE SYSTEM	1
HETCH HETCHY	2
LIBRARY	1
MAYOR	6
MUNICIPAL COURT	3
MUNICIPAL RAILWAY	6
POLICE	18
PORT COMMISSION	2
PUBLIC HEALTH	3
PUBLIC UTILITIES COMM.	1
PUBLIC WORKS	18
PURCHASER	2
RAP	2
REAL ESTATE	2
RECORDER	1
RECREATION & PARK DEPT	3
REDEVELOPMENT AGENCY	1
REGISTRAR OF VOTERS	5
RETIREMENT	5
SHERIFF	2
SOCIAL SERVICES	4
SUPERIOR COURT	4
TAX COLLECTOR	6
TREASURER	1
UNIFIED SCHOOL DIST	8
WAR MEMORIAL	1
WATER	10
TOTAL	164



TABLE 4

SUMMARY OF CLAIMS FILED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Cases</u>
MUNICIPAL RAILWAY	2,546
ADULT PROBATION	1
AGRICULTURAL COMMISSION	2
AIRPORT	447
ART COMMISSION	8
ASSESSOR	1
BOARD OF SUPERVISORS	5
CITY ATTORNEY	2
CITY PLANNING	3
CIVIL SERVICE COMMISSION	3
CLEANWATER MANAGEMENT	3
COMMISSION ON AGING	1
COMMUNITY COLLEGE	3
CONTROLLER	3
DISTRICT ATTORNEY	17
ELECTRICITY	15
FINE ARTS MUSEUM	2
FIRE	89
HETCH HETCHY	26
HOUSING AUTHORITY	13
JUVENILE COURT	2
LIBRARY	3
LIGHT, HEAT & POWER	2
MAYOR'S OFFICE	11
MISC.	8
MOSCONE CONVENTION CENTER	3
MUNICIPAL COURT	9
PARKING AUTHORITY	11
POLICE DEPARTMENT	838
PORT COMMISSION	30
PUBLIC DEFENDER	1
PUBLIC HEALTH	138
PUBLIC UTILITIES COMMISSION	2
PUBLIC WORKS	477
PURCHASER	9
REAL ESTATE	3
RECORDER	4
RECREATION & PARK DEPT	138
REDEVELOPMENT AGENCY	3





TABLE 4  
Continued

REGISTRAR OF VOTERS	5
RETIREMENT	2
SHERIFF	103
SOCIAL SERVICES	19
SUPERIOR COURT	3
TAX COLLECTOR	2
TREASURER	2
UNIFIED SCHOOL DIST	24
WAR MEMORIAL	5
WATER	132
YOUTH GUIDANCE CENTER	4
TOTAL NON-MUNI	2,637



TABLE 5

SUMMARY OF ACTIONS FILED DURING FISCAL YEAR

<u>Department</u>	<u>Additions</u>
ABATEMENT (see Section IX)	106
AGING	2
AIRPORT	21
ASSESSOR	4
ASSESSMENT APPEALS BOARD	1
BOARD OF PERMIT APPEALS	5
BOARD OF SUPERVISORS	8
BUREAU OF LIGHT, HEAT AND POWER	1
CENTRAL PERMIT BUREAU	1
CITY ATTORNEY	2
CITY PLANNING	5
CIVIL SERVICE COMMISSION	6
CLEANWATER	5
COMMUNITY COLLEGE	8
CONTROLLER	2
DISTRICT ATTORNEY	7
FIRE	15
HEALTH SERVICE SYSTEM	3
HETCH HETCHY	2
HOUSING AUTHORITY	1
JUVENILE COURT	3
LIBRARY	1
MAYOR	5
MUNICIPAL RAILWAY	360
MUNICIPAL COURT	2
OFFICE OF COMMUNITY DEVELOPMENT	1
PARKING AUTHORITY	3
POLICE	132
PORT COMMISSION	10
PUBLIC DEFENDER	1
PUBLIC HEALTH	47
PUBLIC UTILITIES COMMISSION	30
PUBLIC WORKS	91
PURCHASER	5
REAL ESTATE	14
RECREATION & PARK DEPT	37



TABLE 5  
Continued

<u>Department</u>	<u>Additions</u>
REDEVELOPMENT AGENCY	1
REGISTRAR OF VOTERS	6
RETIREMENT	85
SHERIFF	12
SOCIAL SERVICES	160
SUPERIOR COURT	13
TAX COLLECTOR	10
UNIFIED SCHOOL DIST	49
WAR MEMORIAL	7
WATER	23
TOTAL	1,207



TABLE 6

SUMMARY OF OPEN AND PENDING CASES

<u>Department</u>	<u>1979/80 Current</u>
AIRPORT	110
ABATEMENT	481
(See Section IX)	
ADULT PROBATION	3
AGING	3
ART COMMISSION	1
ASSESSOR	79
ASSESSMENT APPEALS BOARD	1
ASIAN ART MUSEUM	0
BOARD OF PERMIT APPEALS	2
BOARD OF SUPERVISORS	45
BUREAU OF LIGHT, HEAT & POWER	2
CENTRAL PERMIT BUREAU	2
CHIEF ADMINISTRATIVE OFFICER	0
CITY ATTORNEY	6
CITY PLANNING	20
CIVIL SERVICE COMMISSION	57
CLEANWATER	23
COMMUNITY COLLEGE	8
COMMUNITY MENTAL HEALTH	15
CONTROLLER	20
COUNTY CLERK	5
DIRECTOR OF FINANCE AND RECORDS	1
DISTRICT ATTORNEY	15
ELECTRICITY	5
EQUAL OPPORTUNITY COMMISSION	1
FINE ARTS MUSEUMS	7
FIRE DEPARTMENT	33
HEALTH SERVICE SYSTEM	2
HETCH HETCHY	15
HOUSING AUTHORITY	3
HUMAN RIGHTS COMMISSION	1
JUVENILE COURT	12
JUVENILE PROBATION	1
LEGION OF HONOR	1
LIBRARY	1
MAYOR	18
MUNICIPAL COURT	21
MUNICIPAL RAILWAY	1,033
OFFICE OF COMMUNITY DEVELOPMENT	1
PARKING AUTHORITY	7
POLICE DEPARTMENT	414





TABLE 6  
Continued

<u>Department</u>	<u>1979/80 Current</u>
PORT COMMISSION	83
PUBLIC ADMINISTRATOR	4
PUBLIC DEFENDER	0
PUBLIC HEALTH	124
PUBLIC UTILITIES COMM.	32
PUBLIC WORKS	452
PURCHASER	11
RAP	0
REAL ESTATE	80
RECORDER	1
RECREATION & PARK DEPT	99
REDEVELOPMENT AGENCY	3
REGISTRAR OF VOTERS	34
RENT ARBITRATION BOARD	2
RETIREMENT	200
UNIFIED SCHOOL DIST	136
SOCIAL SERVICES	229
SUPERIOR COURT	19
TAX COLLECTOR	42
TREASURER	8
WAR MEMORIAL	81
WATER	5
YOUTH GUIDANCE CENTER	2
ZONING ADMINISTRATOR	
TOTAL	4,158



## II. APPELLATE LITIGATION



## II. APPELLATE LITIGATION

The following is a compendium of cases in which final decisions were rendered during the fiscal year 1980-81. The appellate cases concluded are:

1. Arnel Development Corp. v. City of Costa Mesa (LA 31205). The City of Costa Mesa stipulated on appeal to the Court of Appeal that rezoning of a relatively small area of land (68 acres) was an adjudicatory action and not a legislative act; therefore, the rezoning was outside the scope of the initiative power. Since San Francisco recently rezones areas substantially smaller than 68 acres, our office, joined by several other cities, petitioned the California Supreme Court to transfer the case to itself in view of the important constitutional question involved. As amicus curiae, the City of San Francisco argued that rezoning of any land area is a legislative act. The Court invited San Francisco and two other cities to present oral argument. The California Supreme Court upheld San Francisco's position that rezoning is a legislative act, regardless of the size of the area rezoned. (Hermann/Barkley)

2. Batchelor v. Retirement Board, 1 Civil 47915 (unpublished). Judgment denying administrative writ of mandate was affirmed. The Court of Appeal upheld the trial court's determination that the Retirement Board correctly denied a disability pension to the petitioner police officer. Officer Batchelor allegedly fell from a second story landing on January 11, 1975. He was "knocked out for a few seconds" and injured his "whole back". He first sought medical treatment at the Franciscan Treatment Room in October, 1975. (Maguire)

3. Byrne v. City and County of San Francisco (1981) 113 Cal.App.3d 731. Plaintiff, a 14-year old girl, sought damages for injuries sustained in a vehicle accident. She had disembarked a municipal bus on Sunset Boulevard and was crossing in front of the bus when she was struck by two autos. Plaintiff claimed that the bus did not stop behind the bar marked on the street for that purpose and that the City was negligent in the positioning of a nearside stop on Sunset at Santiago. The Court of Appeal agreed with the jury verdict that there was no evidence of negligence on the part of the City. (Maguire)

4. Edwards v. Steele, 1 Civ. 45159 (unpublished). The City had obtained an order granting it summary judgment in a writ proceeding in which the City challenged a decision of the Board of Permit Appeals granting a zoning variance. The Supreme Court reversed a previous Court of Appeal decision which had upheld the summary judgment on the basis that the Board had exceeded its jurisdiction by failing to render a decision within 40 days after



the filing of the administrative appeal. The Supreme Court transferred the case back to the Court of Appeal for a decision on the merits. The Court of Appeal reversed the trial court, holding that the Board's findings were sufficient to establish that the statutory requirements for granting variances had been met. (Hermann)

5. Flach v. Controller of the City and County of San Francisco, 1 Civil 45774 (unpublished). Judgment denying an administrative writ of mandate was affirmed. The Court of Appeal upheld the trial court's decision that the Controller had appropriately offset an employee's retirement refund pending the outcome of a civil suit between the City and the employee for money damages. The civil suit involved an altercation between the petitioner and a co-worker which resulted in substantial workers' compensation expenses to the City. (Maguire)

6. Greater Westchester Homeowners Association v. City of Los Angeles, 28 Cal.3d 86. An amicus curiae brief was filed with the United States Supreme Court in support of the City of Los Angeles' Petition for Hearing. The decision of the California Supreme Court in this case imposed liability upon Los Angeles, as the owner and operator of Los Angeles International Airport, under a nuisance theory for physical and emotional injuries allegedly caused by noise from aircraft using the airport. On October 6, 1980, the United States Supreme Court denied Los Angeles' Petition for Hearing. (Garibaldi)

7. People v. Toland, 1 Civ. 48799 (unpublished). Appeal of bail forfeiture (\$6,000). Appellant bondsman argued that defendant's nonappearance was excused by her being in a Canadian prison. City Attorney, representing District Attorney and Treasurer, obtained dismissal since time limitations had expired without bondsman producing defendant a legally sufficient excuse. (Frank)

8. City and County of San Francisco v. Fiore, 1 Civ. 45608 (unpublished). The City was granted an injunction ordering the removal of defendant's roof sign. Defendant appealed, contending that the sign ordinance on its face and as applied, violated his First Amendment right to free speech. The Court of Appeal affirmed the judgment of the trial court, holding that the challenged ordinances constituted a permissible time, place and manner regulation. (Hermann)

9. City and County of San Francisco v. Superior Court Citizens for Better Government (unpublished). The petitioner, Citizens for Better Government, was granted a writ by the trial court, which writ ordered the City to hold a special election on an initiative ballot proposition proposing a return to the city-wide system of electing members to the Board of











Supervisors. The City filed an appellate writ seeking to overturn the trial court's order on the grounds, among others, that the special election was too costly, the proponents of the proposition failed to advise signatories that a special election may be required, and that the three-week period between the court's order and the mandated election was not sufficient to prepare adequately for the election. The appellate writ and the City's petition for hearing by the Supreme Court were denied. (Delventhal/Hermann)

10. San Francisco Fire Fighters, Local 798, etc. v. Farrell, 1 Civil 45590 (unpublished). Petitioner filed a mandate action challenging City compensation practices with respect to promotions in the uniformed forces. Specifically, the City was paying members of the uniformed forces promoted before July 1, 1976 compensation different from that paid persons promoted after that date. This practice was based upon the Controller's interpretation of certain Charter amendments adopted after the 1975 police-fire strike. The trial court issued a peremptory writ of mandate halting the practice, and this holding was affirmed on appeal. (Ward)

11. Sheehan v. Retirement Board, 1 Civil 48322 (unpublished). Judgment denying an administrative writ of mandate was affirmed. The Court of Appeal upheld the trial court's determination that the Retirement Board correctly denied an industrial disability pension to a police officer alleging a psychiatric disability. The Court of Appeal found that the medical opinion supported the determination of the Retirement Board that this psychiatric problem was not work related. (Maguire)

12. William Sweeney v. Civil Service Commission of San Francisco, 1 Civil No. 46498 (unpublished). Plaintiff and respondent Sweeney, an employee of the City and County of San Francisco, took a promotional examination in response to an official announcement of defendant. Mr. Sweeney did well on the exams, and was placed rather high on the list. Subsequently, it was discovered that Mr. Sweeney was ineligible to take the examination under the terms set forth in the official announcement, and Mr. Sweeney's test scores were cancelled. After exhausting his administrative remedies, Sweeney filed a petition for writ of mandate to force the defendant to reinstate his test scores and return his name to the list of eligibles. The defendant appealed Judge Low's granting of the writ, and the Court of Appeals reversed. (Rick Murphy)

13. Transport Workers' Union Local 250A, etc.. v. Board of Supervisors, 1 Civil 45278 (unpublished). Judgment granting writ of mandate. The Court of Appeal reversed the trial court's determination that the maximum ceiling set forth in the cost of



living formula in the Memorandum of Understanding included contributions to the retirement system, with the result that about \$125,000 additional had to be paid to bus and streetcar operators for fiscal year 1975-76. The Supreme Court denied a hearing in the case. (Dow)

14. Uni-Rad Medical Clinic v. City and County of San Francisco, 1 Civil 45656 (unpublished). Judgment remanding matter to Assessment Appeals Board with instructions on valuation method, affirmed. The trial court had granted plaintiff's request to set aside valuation of its personal property based on book value depreciated, and instructed the Board to apply fair market value. Plaintiff appealed requesting the Court to set a value for the property. (Foley)

15. Van Atta v. Scott, 27 Cal.3d 424 (1980). The plaintiffs brought this taxpayer's action challenging the constitutionality of procedures followed by the Chief of Police and Sheriff with respect to pretrial release of persons charged with crime. The plaintiffs contended that indigents not convicted of crime could not be held in custody for inability to post money bail. They argued that pretrial detainees were entitled to a presumption favoring release and that the Equal Protection Clause required that any conditions imposed upon release be the least onerous available to the Court. They also claimed that procedural due process compelled the Court to issue written reasons for denying an indigent own recognizance release and that the District Attorney carry the burden of proof that own recognizance release is inappropriate in particular cases.

The California Supreme Court avoided most of the plaintiffs' claims. It declined to rule that money bail was unconstitutional. Nor would it create a hierarchy of conditions for pretrial release. Instead, it focused on the procedural due process issues. The Court rejected the contention that trial judges were required to explain in writing their reasons for denying own recognizance release. But it did hold that prosecutors should be required to prove that own recognizance release should not be allowed in particular cases, thereby creating a species of presumption for such release. (Ward)



### III. LEGISLATIVE SECTION





### III. LEGISLATIVE COUNSEL

#### Board of Supervisors

During fiscal year 1980-81, this Office performed legal work in connection with the preparation, analysis, review or approval of 647 ordinances, 1,060 resolutions, and numerous motions which were either enacted or adopted by the Board of Supervisors during the year. The Office performed similar work in connection with more than 55 proposed Charter amendments, 15 of which will be before the electorate on the November 3, 1981, ballot. More than 60 State Senate and Assembly legislative measures were reviewed and a written analysis of each and its effect on San Francisco was submitted to the City's State Representative in Sacramento.

There were 69 formal written opinions rendered and numerous letters of advice sent to the Board of Supervisors during this same period. In addition, many hours were spent in consultation with members of the Board of Supervisors, the Clerk of the Board and individual Committee Clerks. At least one deputy from this Office was present at each meeting of the Board or of its various committees to give legal advice and assistance with respect to the many questions that arise during the course of such meetings.

Illustrative of the diverse types of legislation which were prepared and approved by this office during the past fiscal year are the following:

A legal opinion regarding special use permits required for expansion of existing businesses in special use districts.

A legal opinion regarding the necessity of a coastal development permit pursuant to the Coastal Act for proposed work in Golden Gate Park.

A legal opinion regarding the time limits governing submission of initiative Charter amendments.

A legal opinion re qualification of Board of Supervisors to participate in legislation affecting stabilization and control of rents and the conversion of existing residential buildings to condominiums where a special interest exists.

An ordinance authorizing the issuance of bonds by the City to establish a fund for low-interest mortgage financing for the acquisition, construction or rehabilitation of housing in the City and to encourage the availability of adequate housing and home finance for persons and families.



An ordinance revising definitions, notice requirements, reporting requirements, time limits, exemptions and penalties of Residential Hotel Unit Conversion and Demolition regulations.

An ordinance establishing a transit impact development fee in order to provide public transit services for new development in the downtown area.

An ordinance extending cable television service to all residential areas of San Francisco and establishing a Citizen's Telecommunications Policy Committee which shall oversee the expenditures of funds for municipal, educational and public access programming.

An ordinance admitting into the Health Service System all temporary City employees with six months or more of continuous service.

An ordinance regulating emergency alarm systems, establishing fees for permits and licenses and excessive false alarms.

An ordinance extending jitney route service and setting fares.

A resolution directing the City Attorney, the Real Estate Department, and the Parking Authority to negotiate an agreement whereby the Senior Housing Development Corporation will lease the air rights over the Performing Arts Garage.

A resolution opposing repeal of the bilingual ballot requirements of the Federal Voting Rights Act.

A resolution authorizing the Recreation and Park Department to apply for and accept State Grant Funds as allocated under the California Parklands Act of 1980.

A resolution supporting the preservation of the coastal waters of California from off-shore oil leasing.

A resolution urging the Mayor to fund project SAFE (Safety Awareness for Everyone) for a minimum of 15 months.

A resolution reaffirming support of affirmative action and equal opportunity and opposing attempts to preempt local jurisdiction.



A resolution supporting the San Francisco Commission on Aging's participation in the Golden State Senior Discount Program, administered by the State of California, Department of Consumer Affairs.

A proposed Charter amendment relating to closed sessions with a board or commission's designated labor negotiator.

A proposed Charter amendment empowering the Board of Supervisors to make provision at the public expense for the welfare of surviving dependents of assassinated elected public officials.

A proposed Charter amendment relating to the administration of Public Works contracts and contractors' working conditions.

State Senate and Assembly Bills on such priority issues as local government financing, transportation financing, Medi-Cal restructuring, increases in state sales tax and the maximum interest rate that may be paid on local government bonds.



#### IV. PUBLIC UTILITIES SECTION





#### IV. PUBLIC UTILITIES SECTION

The section is responsible for all counseling, legal draftsmanship and litigation involving City's Public Utilities Commission, its several bureaus, the Water Department, the Hetch Hetchy project, and the Municipal Railway. An exception is that personal injury and property damage claims and suits arising out of operation of the Municipal Railway are the responsibility of the Municipal Railway trial section, whose activities are covered elsewhere in this report.

Legal service involving the commission itself and its general office is virtually all derived from its departments and bureaus and is discussed, infra. For its general office, however, eight contracts were reviewed and approved.

##### HETCH HETCHY POWER AND WATER SUPPLY

With the cost of fossil fuels continuing to increase, the necessity of frequent rate adjustments to maintain Hetch Hetchy electric rates at market value continued to require legal research and assistance to the Department during this year.

The principal issue in litigation between City and airport tenants, City and the Turlock and Modesto Irrigation Districts, and City and Norris Industries is whether City can charge a market value rate (based in substantial part on electric generation by fossil fueled thermal plants) when City's own generation is entirely hydro-electric in nature. As the fiscal year drew to a close, it appeared that the Norris Industries case and the airline tenant cases would reach settlement, including the interests of the Secretaries of the Interior and of the Army. The litigation with the irrigation districts is more complex.

Meetings were held with representatives of the Department of Agriculture (Forest Service) concerning a demand that City convey certain Hetch Hetchy lands pursuant to a federal interpretation of Section 9(t) of the Raker Act.

A legal opinion was prepared, after extensive research, allowing the expenditure of water supply bond funds on improvement of a major supply line by centerlining it with cement.

Negotiations and research continued with the Department of Interior in order to obtain consent to an amended right of way location for the construction of the Cherry-Eleanor Pumping Station.



Continued investigation and legal research associated with resolution of the long standing controversy over release of water to maintain aquatic life between O'Shaughnessy Dam and Early Intake was undertaken, and, in anticipation of a hearing on the issue, independent legal counsel was retained to pursue the matter.

After substantial legal research it was concluded that the Moccasin Low Head Plant was not a Raker Act project and that City should make application to the Federal Energy Resources Commission for an exempt license for this small capacity plant.

Representation is provided to the department in personal injury and property damage litigation. About 44 construction and consulting contracts were reviewed, revised, approved, and in some cases, completely drafted.

#### SAN FRANCISCO WATER DEPARTMENT

Preparation for trial of the long-standing litigation between peninsula resale customers and the City over alleged unreasonably high water charges by the City continued. Responsibility for this litigation is shared with outside counsel.

Representation is provided routinely in litigation arising from claims of property damage and/or personal injury caused by flooding due to broken water mains, subsidence, excavations, and vehicular accidents.

About 36 construction and consulting leases and permits for right of way use, including amendments, were prepared.

This office continues to file and defend litigation for the purpose of clearing and maintaining pipeline rights of way, eminent domain actions, and recovery of sums owed to the Water Department on delinquent accounts. The rights of way require constant attention to protect the aqueducts underground, by removal of trees and other growth with the potential of causing damage from root growth. It is also necessary to file legal actions to protect from encroachments that would prevent City from installing additional pipes, or infringe upon its right to use the surface. Three such suits were filed this year. A lengthy briefing session and court hearing was held in another case involving the question of whether the adjoining owner could use the surface of the right of way for parking automobiles.

An opinion was prepared on the legality and procedure for transferring responsibility of water service to a small subdivision outside San Francisco from the department to the city





n which the subdivision is located.

Other legal services were provided on a routine basis responding to miscellaneous inquiries from the staff of the Water Department.

#### MUNICIPAL RAILWAY

Legal research and advice were provided relative to revising PUC policy on the employment of former convicts and the use of minority business enterprises as subcontractors and suppliers on Muni contracts (as well as those of Hetch Hetchy and Water Department).

Some construction and consultant contracts were reviewed and approved. The transit system, being extremely labor-intensive, required much attorney time and input in negotiations of Memoranda of Understanding with the union representing transit operators and other platform workers.

Legislation to authorize a transit development fee and a transit assessment District, was approved by the Board of Supervisors. Litigation challenging the transit development fee was immediately filed and is being defended by this office along with outside co-counsel.

A suit was filed against the supplier of track special work, because it was not cut to proper dimensions causing additional expense to the installing contractors.

Research was performed and letters of advice prepared on non-civil service and emergency employments, purchasing procedures, and emergency contracting procedures, and on reorganization of the middle management structure.

Settlement was negotiated in the long-standing conflict with the Keane Manufacturing Company over installation of fare collection system. A like process was completed relative to the subway signal system contract, the contractor being the Wismer & Becker Company.

Similarly, an advantageous settlement was achieved in a case involving construction of the Muni Metro Center. A judgment in favor of a contractor, who participated in construction of the Goods Center, was paid following a lengthy trial.

Many other activities were undertaken, including efforts to collect from Fast Pass vendors who have defaulted on payments to the Muni, preparation of litigation to recover cost of



onstruction delays and preparation of two charter amendments regarding cable car fares, one of which will appear on the ballot in November.

Representation in litigation seeking to prevent a Municipal Railway reorganization of its management structure was provided, with a successful conclusion. Similarly, a suit challenging the City's authority to carry out a partial line abandonment more than one year after the Board of Supervisors failed to disapprove the recommendation, was successfully defended.

Representation was provided in addition, on a wide variety of miscellaneous inquiries by Municipal Railway representatives.





V. RETIREMENT BOARD



## V. RETIREMENT BOARD

### RETIREMENT BOARD HEARINGS AND OTHER LEGAL MATTERS

The San Francisco City and County Employees' Retirement System is administered and managed by the Retirement Board. A Deputy City Attorney is specifically assigned by the City Attorney to act for this office as counsel for the Retirement Board and the Retirement System. This deputy devotes full time to the varied legal problems involved in the daily operations of the Retirement System. He attended each of the 24 meetings of the Retirement Board during the past fiscal year for the purpose of advising the Board on legal matters.

During the year, the Board heard approximately 35 cases in which applicants sought disability or death benefits because of industrial injuries. 128 cases were heard by independent hearing officers. The deputy assigned to the Retirement Board prepared for and participated in each of these cases by cross-examining applicants and witnesses and producing and examining witnesses so that there would be a full presentation of all pertinent facts to the Board.

The deputy assigned to the Retirement Board also supervises other attorneys in this office who are designated to represent the City and County and the Retirement Board in matters before the State Workers' Compensation Appeals Board and the courts of this state. During the year, 2 certified workers' compensation specialists were engaged full time in handling workers' compensation cases.

### COURT LITIGATION

This office represents the Retirement System and Retirement Board, both in the courts and before the Workers' Compensation Appeals Board. Most of the litigation involving the Retirement System concerns the determination by the Court as to who is entitled to benefits under the Retirement System, the extent of such benefits, or whether benefits have been improperly denied an employee or his beneficiary.

During the year, only 6 Administrative Writs of Mandate were petitioned for against the Retirement Board. In 5 of these cases, the petition was denied. The other one was decided in favor of the employee and is on appeal. 1 lawsuit for declaratory relief was filed. This case was dismissed and the matter is on appeal. During this year, 3 cases on appeal were



decided in favor of the Retirement Board.

As we have been reporting in recent years, this office is being called upon more and more frequently to represent the Retirement System in domestic relations litigation involving employees of the City and County who are members of the Retirement System. Until recently, it was usually not necessary to prepare pleadings or appear in court in such cases. However, as a result of recent appellate court decisions authorizing joinder of pension plans in domestic relations cases, it is now the usual practice to join the Retirement System as a party to the proceedings. As a result, an increasing amount of time is spent not only conferring with attorneys representing parties and assisting them with the legal problems relating to the interests of the parties in the benefits provided under the Retirement System but also more and more time is necessarily devoted to the preparation of pleadings, responding to interrogatories and appearances at pre-trial conferences.

The City Attorney also represents the City and Retirement System in respect to the City's right of subrogation against third parties who negligently cause injury to City employees whereby reimbursement is obtained for the amount of compensation paid and medical costs incurred by the City for the benefit of such employees as a result of their injuries. Where a City employee is injured in the course of his employment by a third party, the City has the right to intervene in that action in order to recover the amount of benefits paid to or on behalf of the City employee. During the past year, actual cash recoveries from July 1, 1980 to June 30, 1981 increased from \$194,093.62 to \$215,766.98.

STATE WORKERS' COMPENSATION APPEALS BOARD  
PROCEEDINGS AND SUITS IN INTERVENTION

Pursuant to Section 8.515 of the Charter, the Retirement Board administers the benefit provisions of the Workers' Compensation laws of the State of California for industrial injuries and deaths sustained by employees of the City and County, the Unified School District and the Community College District. This office appears on behalf of the Retirement System in hearings before the Workers' Compensation Appeals Board of the State of California in connection with all contested claims for workers' compensation benefits involving the City and County, the Unified School District and the Community College District. Hearings are held by the Appeals Board in those cases in which the Retirement System denied liability for the alleged industrial injury or death denies that an injury occurred, contests the claimed disability resulted from the injury or in which the





Retirement System questions the extent of the claimed disability.

There were approximately 6,000 industrial injuries among City employees during the past year; 700 applications for workers' compensation benefits were filed or pending before the Appeals Board. As a result, this office prepared for and participated in 802 hearings before the Appeals Board. The hearings involved applications for benefits filed by employees of the following departments and agencies: Airport, City Attorney, City Planning, Community College District, Controller, Electricity, Fire Hetch Hetchy, Juvenile Court, Mayor's Office, Municipal Court, Municipal Railway, Police, Public Health, Public Library, Public Works, Purchaser, Recreation and Park, Registrar of Voters, Sheriff, Social Services, School District, Tax Collector and Water.





VI. RATE SECTION



## VI. RATE SECTION

Virtually every citizen in San Francisco uses utility services - telephone, gas and electricity. For this reason the City Attorney's Office has historically appeared before the California Public Utilities Commission in an effort to ensure that both citizens of San Francisco and city government are provided quality utility service at fair rates. Our presentations historically have been very successful in reducing excessive rate requests by Pacific Telephone and PG&E and the recent fiscal year was no exception. Our office participated in major rate cases with great success.

### TELEPHONE REFUNDS

In May and June of 1981, the City received approximately \$560,000.00 and the residents of San Francisco received approximately \$12 million in telephone refunds as a result of cases the City brought many years ago.

The City through petitions for rehearing to the California Public Utilities Commission and a case before the California Supreme Court successfully overturned other rate increases previously granted by the California Public Utilities Commission. We urged the Commission to rescind a \$30 million rate increase previously granted. Refunds were ordered. The City alone saved a \$100,00 a year on its telephone bill as a result of this action.

A second refund of \$26 million was ordered after the City sought rehearing. In this case, refunds were distributed solely in the San Francisco and Los Angeles metropolitan areas.

At the end of the fiscal year, the telephone company was seeking over a billion dollars in additional increases and our office is actively participating in these cases to ensure the lowest reasonable rates for San Francisco.

### ENERGY UTILITIES

Our office has been involved in numerous cases involving PG&E. Of particular significance to San Francisco was the recent allowance of a special lifeline rate in San Francisco during summer months. State law requires a low rate for basic amounts of gas and electricity used for heating purposes. The California Commission assumed that during summer months no allowance should be granted for heating under the general theory that in summer



the weather is warm and no heating is necessary. Our office and others brought to the Commission's attention the fact that San Francisco is quite cold in summer months and a special low rate heating allowance is necessary. This was recently recognized by the Commission. This should at least slightly reduce summer utility rates.

In a case filed in late 1980, PG&E sought to increase the City's contract rate for supplemental Hetch Hetchy power purchased from PG&E. The increase for 1981 would have been \$52,000. We persuaded PG&E that this was an improper request in the context of the case. PG&E withdrew the request.

PG&E is presently seeking a major rate increase which will become effective January 1, 1982. We will be arguing against various aspects of these increases.

#### OTHER DEPARTMENTS

In addition to the rate work before the California Public Utilities Commission, this section provides expertise in economics in rate making to various city agencies. During the recent fiscal year, we were involved in the areas of cable television, garbage rates, federal court litigation involving water rates charged on the Peninsula, and Hetch Hetchy power rates charged at the airport. These activities are continuing and involve complex litigation.



VII. PORT SECTION





## VII. PORT SECTION

### I

#### INTRODUCTION

The San Francisco Port Commission was created by Section 3.580 of the San Francisco Charter. Pursuant to San Francisco Charter Section 3.581, the Port Commission is empowered to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco. The area under the Port Commission's jurisdiction consists of over 2,000 acres of real estate spread over more than 5 1/2 miles of shoreline along the San Francisco waterfront.

### II

#### SERVICES RENDERED

##### A. Leases, Licenses and Agreements.

The Port of San Francisco currently has in effect over 800 leases and licenses relative to the use of its properties. In addition, the San Francisco Port Commission is a party to over 100 contracts and agreements for services, repairs, maintenance, construction and other matters related to the operation of the Port of San Francisco. In many instances these agreements and contracts are drafted by the Port Division of the City Attorney's Office; in some instances the Port Division negotiates terms and provisions with tenants and contractors; in all instances the Port Division reviews and approves as to form these agreements and contracts. Contract and lease work involves continual document preparation, review and revision as well as legal interpretation and law enforcement. The Port Division of the City Attorney's Office has prepared a master lease form for the San Francisco Port Commission which is revised from time to time as developments in commercial leasing law and practice dictate. Lease preparation by the Port Division is accomplished with the assistance of the word processing center of the City Attorney's City Hall office.

Examples of work performed in this category during Fiscal Year 1980-81 include preparation of a ground lease for the construction of an office building on Seawall Lot 321, preparation of an equipment lease for use of a crane owned by the Port, drafting of amendments to and assignments of restaurant retail business leases, drafting of various professional and



technical services contracts for the Port, and preparation of bid packages for leases at Piers 31 and 36. A total of approximately 55 such leases, amendments, assignments, licenses, contracts and agreements were either drafted, negotiated, approved as to form, or enforced over the past year.

#### B. Advice and Opinions.

Another significant function of the Port Division of the City Attorney's Office is the rendering of legal advice to the San Francisco Port Commission and its managerial staff. This involves research of federal and state laws, the charter and ordinances of the City and County of San Francisco, relevant case law, and, where necessary, federal, state and local regulations. A member of the Port Division attends all staff meetings and all San Francisco Port Commission meetings. In addition to insuring that the San Francisco Port Commission complies with the laws and regulations governing conduct of public meetings, the attending deputy city attorney, when appropriate and possible, normally provides on-the-spot legal advice and guidance to the Commission. Examples of tasks within this category include advice to the accounting department concerning delinquent accounts, procedures and legal requirements for bid requests, and proposed and newly enacted statutes, charter amendments and ordinances relating to the San Francisco Port Commission.

Informal advice and opinions are requested of the Port Division of the City Attorney's Office on an average of 10 to 15 times per week. Written advice by way of formal opinion letter or memorandum is rendered by the Port Division on an average of 2 to 5 times per week.

#### C. Litigation.

As a result of the effort commenced in 1978 to consolidate all legal services to the Port within the Port Division, the Port Division handled substantially more litigation in Fiscal Year 1980-81 than ever before. Port litigation, which includes both plaintiff and defense work, involves the direction of investigative activities, discovery, pre-trial matters, trial, extraordinary proceedings and appellate litigation. The Port Division handles legal disputes involving a number of areas of substantive law, including bankruptcy, admiralty, personal injury, wrongful death, real property, landlord-tenant, public nuisance, contract, and employment law. At the end of Fiscal Year 1980-81 there were approximately 93 pending cases involving the San Francisco Port Commission, all of which were handled by the Port Division.

Although the Port is covered, in its own right, or as the landlord of the leased premises, by public liability and property





damage insurance, it is often necessary for Port Division attorneys to become involved in litigation because the insurance coverage does not apply due to a self-insured retention or because tender offers to the Port's insurance carriers or to the Port's tenants and their insurers are not accepted.

#### D. Claims

All claims against the City arising out of the operation of the Port have been handled by the Port Division. Work in this area involves the review, assessment, investigation, settlement and administration of all claims filed against the San Francisco Port Commission. Claims filed against the Port Commission generally cover the same diverse areas of substantive law which are involved in the litigation presently pending against the Port Commission. In addition to requiring a working knowledge of the various areas of substantive law in order to assess these claims, Port Division attorneys must comply with and enforce the claims procedures set forth in the California Tort Claims Act and in the San Francisco Charter. Approximately 50 claims were pending against the Port of San Francisco at the end of the fiscal year.

#### E. Construction Contracts.

Further construction, particularly construction of container facilities in the southern waterfront of the Port of San Francisco continues to be anticipated in the near future. Various contracts involved in these undertakings will require significant preparation and proper administration in order to protect the Port's interests and avoid litigation. There is already significant construction activity involving Port properties. One major project is the current construction of the waterfront promenade directly south of the Ferry Building-Agriculture Building complex area. In addition, the Port Division has continued working with the legal department of the San Francisco Redevelopment Agency on redevelopment projects in, around or adjacent to Port properties in the Rincon Point, South Beach area which will require a joint effort of both the San Francisco Port Commission and the San Francisco Redevelopment Agency. Finally, restoration and development of the Ferry Building complex is anticipated to commence by the end of the next fiscal year; the Port Division has worked with Port staff and the developers in resolving potential legal problems associated with this project.

#### F. Unlawful Detainers and Collections.

In addition to handling litigation to retake premises in unlawful detainer situations and to collect money on delinquent accounts, the Port Division gives legal advice to both the



Commercial Property Department and the Accounting Department of the Port of San Francisco in order to prevent the necessity of litigation where possible and to collect debts expeditiously.

#### G. Civil Service and Personnel Matters.

Port personnel matters regarding potential or actual hiring, dismissal or suspension of Port employees are referred to the Port Division. Port Division attorneys insure that the Port management receives proper legal assistance and that the personnel are afforded the due process safeguards to which they are entitled. The Port Division also advises Port management on questions related to employee benefits. During Fiscal Year 1980-81, the Port Division prepared a memorandum of understanding between the Port and the Controller, Civil Service, Retirement System and Health Service System to consolidate the preparation of all Port payrolls (City, State and Belt Railroad) and to transfer certain responsibilities for payroll preparation to the Port's Accounting Department.

#### H. Governmental Matters.

The San Francisco Port Commission and its maritime tenants are generally subject to the Shipping Act of 1916 and the regulations of the Federal Maritime Commission. Certain aspects of Port operations also fall within the jurisdiction of the Maritime Administration of the U. S. Department of Commerce. Still other matters relating to Port operations fall within the jurisdiction of the Interstate Commerce Commission. The City Attorney must assure compliance with the laws and regulations promulgated under the authority of these and other agencies having jurisdiction over various Port operations. Examples of work performed under this category have included the filing of all maritime agreements with the Federal Maritime Commission, the filing of petitions for investigation and suspension of certain proposed tariff increases requested by railroads serving the Port of San Francisco and filing of a request for denial of an application for special permission filed by the Transcontinental Freight Bureau with the Interstate Commerce Commission in Washington, D.C.

Other governmental matters requiring the attention of the Port Division of the City Attorney's Office include the review of all federal, state, regional and local legislation and regulations which may have an affect upon the Port, its operations or its tenants. Examples of duties within this category included ongoing advice to staff and commission members regarding the conflict of interest requirements of the applicable state and city conflict of interest laws and advice regarding the effect of state legislation on the Port's fiscal policies. Other tasks involving interagency and intergovernmental relations





included working closely with the City Planning Commission, the San Francisco Redevelopment Agency and the Bay Conservation and Development Commission.

The Port General Counsel also sits on the Law and Legislation Committee of the California Association of Port Authorities and the American Association of Port Authorities.



VIII. AIRPORT SECTION



## VIII. AIRPORTS DIVISION

### 1. General.

The Airports Commission is established and created by Section 3.690 of the Charter to operate and manage San Francisco International Airport.

Deputies of this Office are specifically designated by the City Attorney to serve as legal advisors to the Airports Commission and its staff. These deputies, currently four in number, are involved in the furnishing of legal services on a daily basis with respect to the varied and complex operations at San Francisco International Airport.

In order to deliver these legal services more efficiently, the four deputies are located full time at the Airport. Initial inadequacies as to office space, secretarial help, equipment, and law library have been overcome and the Airports Division is now functioning very effectively.

The following are specific examples of the services rendered by the Airports Division during fiscal year 1980-81:

### 2. Services Rendered.

#### a. Joint Powers Authority.

As you know, the Airport had been exploring for some time means of providing funds to the City's General Fund. One proposal was to create a joint powers authority, which would lease the Airport from the City and County, with lease payments being made to the General Fund. Consideration of this concept began in the 1979-80 fiscal year and continued into this fiscal year. The Airports Division did extensive legal research and prepared many drafts of documents during the exploration of this concept.

#### b. Leases, Permits and Concession Agreements.

Since the opening of the North Terminal in the Spring of 1979, the Airports Division has been engaged in drafting concession agreements and related documents for the many new concessions planned for the North Terminal. In addition, several agreements for concessions in the Central and South Terminals expired and the Airports Division prepared new agreements and related documents for these concessions as well as for some new concessions.



As a general matter, the Airport's Property Management Division administers over 300 leases, permits and concession agreements with airlines, firms and governmental agencies. The Airports Division works closely with the Property Management Division in the review, revision and interpretation of these documents.

c. Claims and Litigation.

Of major interest, of course, is the litigation instituted in Federal and State courts by various airlines. This litigation seeks a sum estimated at approximately \$50 million because of alleged illegal diversions of interest to the City's General Fund from the Airports Revenue Fund and various revenue bond funds. This Office has been working closely with the outside counsel retained by the City to defend this litigation. Due to these efforts, the Federal District Court dismissed the suit in Federal Court. This decision is now being appealed by the airlines. Also, pursuant to the City's motion, venue of the State litigation was changed from San Mateo County to San Francisco. As you are aware, this Office has actively participated in negotiations for settlement of this litigation and has been involved in the drafting and review of various documents in connection with those negotiations.

The construction of the Public Parking Garage has resulted in one suit claiming \$3 million in damages and one claim asserting damages in the sum of \$23 million. The Airports Division is working closely with the outside counsel retained to handle these two very complex matters.

In addition, the Airports Division reviews and assists in the handling of claims for personal injury and property damage arising out of the operation of the Airport and in the handling of the defense of all litigated claims.

d. Construction and Professional Services Contracts

The Airport's Modernization and Replacement Phase involves the awarding of numerous contracts for construction and remodelling work to be done in the Central and South Terminals. In addition, contracts have been awarded for runway repair and other projects. During the past fiscal year, the Airports Division assisted in the preparation and review of approximately 3 such contracts. Once a construction contract is awarded, the Airports Division is called upon almost daily to assist in the administration of the contract.

Because of the varied activities involved in the operation of the Airport, it is frequently necessary to engage specialized professional services to assist the Airport staff in areas in





which it does possess the required expertise. The engaging of such services requires entering into a specific agreement. During the past fiscal year, the Airports Division assisted in the preparation and review of 34 such agreements.

e. Dismissal and Suspension Proceedings.

Airport personnel matters involving potential and actual dismissal and suspension hearings require the close attention of the Airports Division and the giving of legal advice to the Airport's Personnel Bureau to guarantee that personnel involved are afforded due process safeguards and that in each instance all relevant facts and legal issues are fully presented.

f. Revenue Bonds.

The Airports Division functions as associates to bond counsel and acts as liaison with financial consultants with respect to revenue bond problems. During the past fiscal year, the Airports Division was involved in reviewing with bond counsel the legal issues involved in financing capital improvement through a joint powers agency as well as with bond related issues involved in negotiating settlement of the litigation instituted by the airlines.

g. Environmental Matters.

In connection with the Airport's Modernization and Replacement Phase, the Airports Division has been involved in reviewing and advising the Airport as to the applicability of the California Environmental Quality Act and the National Environmental Protection Act.

Likewise, the Airports Division maintains a close contact with the Airport Sound Abatement Center and noise monitoring system to assure compliance with legal requirements of State and Federal noise regulations. In this regard, it was necessary for the Airport to seek a variance from the State's noise regulations. The Airports Division prepared the necessary application for variance and participated in five years of hearings in connection with that application. Hearings on the application have not as yet concluded, with further hearings now scheduled for November of this year.

As reported in the Annual Report for 1979-80, the Airports Division had prepared and filed with the United States Supreme Court an amicus curiae brief in support of the City of Los Angeles' Petition for Hearing in Greater Westchester Homeowners Ass'n. v. City of Los Angeles. The decision of the California Supreme Court in this case imposed liability upon Los Angeles, as the owner and operator of Los Angeles International Airport,



under a nuisance theory for physical and emotional injuries allegedly caused by noise from aircraft using the Airport. Regrettably, the U.S. Supreme Court has denied Los Angeles' Petition for a Hearing, thereby allowing the California Supreme Court's decision to stand. As a result, in excess of 250 claims have been filed against the City and County seeking damages for alleged physical and emotional injuries and property damage claimed to have been caused by noise from aircraft operations at San Francisco International Airport. Although each of these claims has been denied, none of the claimants has yet instituted litigation in pursuit of his claim.

#### h. Opinions and Advice.

The varied operations of the Airport require that members of the Airports Division attend numerous staff meetings to assist Airport management with the legal aspects of policy and operational decisions. Likewise, a member of the Airports Division attends each meeting of the Airports Commission.

Opinions and advice are rendered to the Airports Commission and its staff on a daily basis to assist them in managing and administering the many different activities involved in the operation of the Airport.



IX. CODE ENFORCEMENT SECTION





## IX. CODE ENFORCEMENT SECTION

Code Enforcement activities include enforcing codes by court action, defending city officials in suits brought to prevent code enforcement, advising city departments involved in code enforcement and drafting legislation involving code enforcement.

### ABATEMENT CASES

There are approximately 104,000 structures for single family occupancy, 40,714 structures for 2-family occupancy and 177,471 dwelling units in structures for 3 or more family occupancies in the City and County of San Francisco and a large number of commercial structures. From time to time, the condition of some of these properties falls below the minimum standards for housing as established by the San Francisco Housing Code, San Francisco Building Code or other codes regulating the use or condition of property in the City and County of San Francisco. When these properties have fallen below the standards required, the various regulatory departments of the City commence administrative action to secure compliance with the minimum standards required by the codes. In a number of cases, code compliance cannot be secured through the administrative procedure and those cases are referred to the Office of the City Attorney for court action to abate the substandard or illegal condition of the property. These cases are known as abatement cases and are the primary activity of the Code Enforcement Section of the City Attorney's office.

There are also a considerable number of abatement cases filed each year to enforce the provisions of the City Planning Code and the Fire Code. City Planning cases normally involve illegal dwelling units which violate the uses set forth in the applicable zoning districts. Other cases may be filed to rid a residential neighborhood of commercial uses.

A top priority in this section has been the prosecution of retro-high-rise fire cases. We are seeking injunctions to compel these buildings to comply with the State High Rise Fire Laws, promulgated in Titles 19 and 24 of the Cal. Admin. Code, and the Health and Safety Code and the Fire Code of the City and County of San Francisco. We currently have eight actions pending on high-rise buildings. Six of these buildings are used for residential purposes and two are office buildings. There are many other buildings which have been issued "Orders to Abate" by the Fire Department, giving the owners a maximum of thirty days to comply with state law. Failure to comply with the Fire Department's order will undoubtedly result in a referral to this office of other cases.





The importance of the high-rise litigation cannot be overemphasized, especially in light of high rise fires that have been reported throughout the country in the last year. It is our intention to continue working with the Fire Department to ensure that the over 430 high rise buildings in San Francisco are safe and secure.

The City's Residential Rehabilitation Assistance Program (RAP) was adopted pursuant to the Marks-Foran Residential Rehabilitation act of 1973 (California Health and Safety Code, Sections 39710, et seq.) which authorizes various local public bodies in the state to issue bonds to finance property owner loans in area-wide residential rehabilitation programs.

RAP has continued to come under attack in the Upper Ashbury designated area. Over the past year, this attack has taken the form of an attempt to take away its Community Development Block Grant funding, an attempt to de-designate the area, and a challenge to the inspection warrant process.

In addition to the usual abatement prosecution, code enforcement assists the Bureau of Building Inspection by obtaining inspection warrants in cases of recalcitrant landowners. If efforts to obtain the cooperation of the property owner are fruitless, the inspector assigned to the case will refer the matter to this office. The need for inspection may vary. The inspection may be required to investigate a complaint of a neighbor or tenant; or it may be necessary to carry out a rehabilitation (R.A.P.) or regulatory (D.A.H.I.) program; or it may be needed in order to follow up on reports of violations revealed by previous inspections. Accordingly, the application for the inspection warrant and the legal memorandum in support thereof must be tailored to fit the particular case. The court strictly scrutinizes these applications since they are "ex parte" and some are challenged.

NEW ABATEMENT CASES RECEIVED DURING YEAR

During the year 138 new abatement cases were sent to this office from various City departments for legal action.

NEW CASES 1980-1981

DEPARTMENT OF CITY PLANNING	4
RAP PROGRAM	30
DEPARTMENT OF PUBLIC WORKS	88
FIRE	<u>16</u>
TOTAL	<u>138</u>



## ENFORCEMENT ACTIVITIES

Superior Court Actions were filed during the year against 106 properties.

### SUITS FILED 1980-1981

DEPARTMENT OF CITY PLANNING	7
DEPARTMENT OF PUBLIC WORKS	76
RAP PROGRAM	13
FIRE DEPARTMENT	<u>10</u>
TOTAL	<u>106</u>

During the year 52 trials and 106 default hearings were set on abatement cases resulting in injunctions in favor of the City ordering the owners to correct code violations. To enforce outstanding injunctions, owners are brought before the court on orders to show cause re contempt. During this year, this office handled 515 scheduled contempt appearances.

Enforcement by contempt requires a large amount of clerical and administrative time and 8 to 10 court appearances on the average for each case. It is, however, very effective, as construction is under way in earnest on the pending contempt cases. In the great majority of these cases the first or second court appearance is sufficient to motivate the owner to commence the repair or demolition of the building. In a few cases during the year, unfortunately, it has been necessary to prosecute the owners for contempt and seek fines and imprisonment in an effort to obtain compliance.

Owners of 29 properties were prosecuted for contempt. All of the owners prosecuted were fined and ordered committed to the county jail until compliance with the court order. These jail commitments were stayed, however, so long as work was in progress to make the required repairs. One recalcitrant owner did spend 5 days in jail.

In some cases the only resolution of the problem is for the City to demolish the structure. The cost of demolition is added to the taxes as a special assessment pursuant to the provisions of the San Francisco Municipal Code and Government Code.



## CASES TERMINATED 1980-1981

During the year 123 cases were terminated. Cases were terminated because owners corrected the illegal conditions, demolished the structure, or, for other reasons, primarily, by dismissals of pending deferred cases. This latter type of closeout occurs where work is progressing, and this office is advised to defer legal action. While the case is deferred, the statute of limitations runs on the abatement case. These cases are then closed out and sent back to the referring department with instructions to return the case in the event corrective work stops. Almost without exception, work on such cases is continued to completion without referral again to the City Attorney.

### Terminations 1980-1981

	<u>No. of Cases</u>	<u>Demolition</u>	<u>Correction</u>
Department of Public Health	0	0	0
Department of Public Works	90	6	84
FACE Program	7	2	5
RAP Program	13	1	12
City Planning	13	0	13
Fire Department	0	0	0
TOTAL	<u>123</u>	<u>09</u>	<u>114</u>

### Terminations By Dwelling Units

	<u>No. of Cases</u>	<u>Dwelling Units</u>	<u>Other Type Structure</u>
Rehabilitation	120	773	418
Demolition	9	9	38
TOTAL	<u>129</u>	<u>782</u>	<u>456</u>







47 of the cases that were closed during the year had progressed far enough to entitle the City to costs. Motions for final judgment were made on these cases resulting in judgments in favor of the City in the amount of \$7,310.55. Much of this amount has been collected and deposited in the general fund. The average cost to the City per case is \$150.00 to \$200.00 to file and serve summons and complaint, and \$200.00 to \$250.00 if the case goes to trial.

### SUMMARY AND END OF THE YEAR INVENTORY

The case inventory list discloses that there are presently pending 481 litigated cases and 327 non-litigated, for a total of 808.

#### Year-End Summary of Pending Cases

	<u>Litigated</u>	<u>Non- Litigated</u>	<u>Total</u>
Department of Public Health	0	0	0
Department of Public Works	332	80	412
FACE Program	22	2	24
RAP Program	42	80	122
City Planning	68	6	74
Fire Department	17	18	35
Dahi		<u>141</u>	<u>141</u>
TOTAL	<u>481</u>	<u>327</u>	<u>808</u>



## ADVICE TO CITY DEPARTMENTS INVOLVED IN CODE ENFORCEMENT

This office assists the Department of Public Works by providing legal advice as needed.

Attorneys provide legal advice to the Rehabilitation Assistance Program (RAP). This includes interpreting contracts, advice as to public finance of bonds, resolving mechanics' lien problems, tax liens, levies, approving the form of RAP loan documents and preparation of legal opinions.

This office advises the Zoning Administrator on interpretations of the City Planning Code with reference to zoning violations, variances and conditional use authorizations.

On a number of occasions, upon request, Deputy City Attorneys from this section appeared at administrative hearings before the Director of Public Works and the Director of Public Health to give advice during the course of the hearing.

During the course of the year the staff handled literally thousands of informational calls referred by other departments to the City Attorney involving the status of abatement cases, code problems, condition of property and other related questions from attorneys, property owners, citizens, community groups and the media.

## LEGISLATION

This office assisted the Board of Supervisors, the Department of Public Works, the Fire Department, the Department of Real Estate and the Department of City Planning in the interpretation and preparation of State and local legislation affecting code enforcement and land use in a wide range of areas.

## CONDOMINIUM CONVERSION

This office has actively participated in amending and interpreting Chapter IX of the Subdivision Code dealing with the regulation of condominium conversions. Amendments were enacted in July, 1979, and since that time, this office has been assisting the Department of City Planning, the City Planning Commission and the Department of Public Works in the application of said amendments to condominium conversion problems. This assistance includes telephone



calls, letters and research for City agencies as well as general information provided to attorneys, subdividers and tenants involved in condominium conversions.

Additional amendments to the Subdivision Code are now being proposed. This office is again involved in drafting and approving said amendments as well as researching the validity of language and policy which the City and County of San Francisco seeks to implement.

Law suits have also been filed by subdividers and tenants against each other and against the City thus involving this office in litigation concerning the interpretation of the Subdivision Code requirements and the conditions imposed by tentative map approvals.



X. SPECIAL PROJECTS DIVISION





## X. SPECIAL PROJECTS DIVISION

The function of this Division is to provide full time legal assistance and monitoring to complex projects which are of particular importance to the City and County. These projects include the Clean Water Program, the Rehabilitation Assistance Program, the Housing Improvement Program, the Parking Authority, Solid Waste Management, Housing Revenue Bonds, Community Development Grant Block Programs and Industrial Development Authority. These and other projects require daily legal review and participation from staff members qualified to identify problems that may arise and who are capable of recommending the necessary preventative action.

The Special Projects Division must also prepare opinions, review contract and bidding requirements and procedures, coordinate functions with various state and federal agencies, and participate in court litigation on the projects. This necessarily involves review of bond resolutions, official statements prepared for the sale of bonds and all other matters relating specifically to project funding.

### CLEAN WATER PROGRAM

The Clean Water Program is the largest construction program that the City has embarked upon. Currently, for the Phase II portion, the estimated construction cost is \$1,600,000,000, of which \$600 million has been expended for construction underway and completed. The Special Projects Division is monitoring eight (8) construction contracts that are underway. In addition, five (5) contracts where construction is completed still involve legal services for extras claimed by the contractors for work that they claim was not covered by the original contract documents.

The City Attorney's Office represented the Director of Public Works in two (2) bid protests filed; one by the second low bidder and one by the Minority Business Alliance, to prevent the awarding of the Ocean Outfall Contract. After hearings conducted by the Director of Public Works and by the United States Environmental Protection Agency, the protests were resolved in favor of the City and the largest single construction contract ever awarded by the City was permitted to go ahead.

In addition to the construction program, numerous meetings and hearings have been attended before the Board of Supervisors, the Regional Water Quality Control Board, the State Water Resources Control Board and the United States Environmental Protection Agency concerning the progress of the City's program.



Currently there are twenty-two (22) cases pending directly against the Clean Water Program involving personal injury and property damage caused by operations of the program and claims for inverse condemnation for damage to property as a result of construction activities. In addition to the lawsuits filed, two (2) construction contractors have filed demands for arbitration which they are entitled to do under the general conditions of the Environmental Protection Agency.

Two (2) lawsuits which had been filed during the prior fiscal years seeking to invalidate the sewer service charge and prevent future expenditures by the City on the Clean Water Program were concluded. Both actions were terminated successfully by the City in the lower courts, with one currently on appeal.

The Clean Water Program is funded in part by revenue bonds issued by the City and County of San Francisco, together with grants received from both the state and federal governments. A consistent recurring problem is one of grant eligibility in securing maximum participation on behalf of state and federal governments in the program. During this fiscal year similar determinations were made by the State of California in administering the grants program denying eligibility on certain consultant contracts that the City has with the construction consultants. As a result, this Division has filed appeals with the EPA in Washington, DC which involved the review of the applicable federal regulations and the production of documents to justify these expenses as program related and grant eligible. A final determination of these appeals will not occur until the next fiscal year.

A new Sewer Service Charge Resolution was prepared by this Division for introduction to the Board of Supervisors to pay for the cost of operating and maintaining the system, as well as to provide funds for the repayment of general obligation and revenue bonds previously issued by the City.

This Division, in consultation with the manager of the Clean Water Program and the City's bond counsel, assisted in the preparation of the various legal documents for the issuance of Series B Sewer Revenue Bonds. A bond sale was successfully concluded during the past fiscal year whereby \$50 million of Sewer Revenue Bonds were sold. This required an intense review of the Official Statement adopted by the City to enable the Clean Water Program to market this size bond issue.

The state and federal regulatory agencies concluded that it was in the best interest of these agencies that the City sign a consent decree calling upon the City to construct the Master Plan with no guarantee of state or federal funding. This Division





consistently opposed the concept of signing a consent decree for this purpose and both the State Water Quality Control Board and the Environmental Protection Agency have determined that a consent decree is no longer needed.

#### SOLID WASTE MANAGEMENT PROGRAM

The City and County of San Francisco has designated the Sanitary Fill Company as the disposer of solid waste collected in San Francisco. At the present time the solid waste is trucked to Mountain View where it is being placed in landfill. This site will be available to San Francisco until October of 1983.

As a consequence the Sanitary Fill Company has submitted a proposal to the City and County of San Francisco to dispose of the City's solid waste by using a waste-to-energy process.

This Division has been assigned to review all of the contracts, permits, bond requirements and environmental matters that will arise as a result of City review of the project.

Resolutions have been prepared, a draft EIR reviewed and contracts for consultants have been prepared. It is anticipated that extensive legal work will be required in the next fiscal year on preparation of contracts, rate review and legal research on funding the construction cost of the proposed facility.

#### OFFICE OF COMMUNITY DEVELOPMENT

The Special Project Division is counsel for the Mayor's Office of Community Development ("OCD"). A Division attorney advises and assists OCD as to all matters of legal consequence regarding OCD use of state and federal community development monies; assistance to OCD covers the legal fields of real property, contracts, corporation law, federal grant procedures, and finance and business law.

The City enters into an annual contract with the United States Department of Housing and Urban Development ("HUD") for the development and implementation of a Community Development Program and Housing Assistance Plan pursuant to Title 1 of the Housing and Community Development Act of 1974, as amended. Under this contract HUD annually provides approximately 30 million dollars in Community Development Block Grant ("CDBG") monies for eligible community development activities.





Pursuant to HUD administrative regulations and by resolution of the City's Board of Supervisors, the Mayor is empowered to apply, accept and administer the distribution of the CDBG monies. These monies are administered by the Mayor through OCD.

The Special Project Division assists OCD in the development and implementation of a variety of community development programs designed to make available or improve housing for low or moderate income persons in the City, or to provide and improve various public services to the City's several neighborhoods.

Each new program developed by OCD must be designed to (1) comply with all applicable federal, state and local laws and administrative remedies, (2) produce the desired result and (3) permit the City to maintain and enforce the integrity of the Community Development program as required under federal law. This Division actively assists OCD in the development of all new programs. During the past fiscal year this Division was involved in the development of the "Site Acquisition" and "City Deferred Loan Payment" programs, respectively designed to purchase and rehabilitate housing for low to moderate income persons.

During the implementation of the varied Community Development programs, OCD contracts with and monitors the performance of more than thirty nonprofit corporations. During the implementation of the programs, this Division drafts all required legal documents, advises OCD on all requests from or actions of the nonprofit corporations having legal consequence, and reviews or drafts OCD correspondence requiring legal expertise. OCD is frequently presented examples of misfeasance or nonfeasance by the nonprofit corporations involving misuse of CDBG monies, engaging in activities constituting a conflict of interest, and improper changes in corporate structure. It is the responsibility of this office to assist in the investigation of any improper acts taken by a nonprofit corporation, determination and institution of any necessary legal action and, when necessary, the restructuring of a specific community development program. During the year this Division frequently provided OCD legal opinions, correspondence and necessary legal documents regarding possible or actual misuse of CDBG monies by a number of nonprofit corporations.

This Division also acts as "in-house" counsel to OCD in its participation in the state of California "Rental Housing Construction Program" and the proposed "City-Wide Affordable Housing Program". The former program is funded under contract with the State Department of Community Development. The latter program is to be funded through a novel combination of tax-exempt bonds and private contributions.



The City-Wide Affordable Housing Program is to be designed and funded pursuant to new and complex state and federal housing and tax laws. This Division helped OCD gain an exception to certain provisions of the Health and Safety Code legislation making easier the development of the City-wide program; this Division continues to work with OCD and bond counsel to secure other necessary state legislation.

This Division also has primary responsibility for the enforcement of the legal obligations required of the nonprofit corporations by OCD. One major case involving the Bayview Hunters Point Nonprofit Community Development Corporation is presently in litigation. This Division has also assisted OCD and the District Attorney's office in determining the occurrence of possible criminal acts by certain members of the Bayview Corporation; criminal trials are scheduled to begin in September 1981. Concomitant with the criminal prosecutions, this Division (along with the City Attorney's "complex litigation" group) is engaged in litigation against Bayview to prevent the loss of public monies and the waste of real property improvements funded, in part, with CDBG monies.

This Division is also presently actively assisting OCD in the investigation of alleged misuse of CDBG monies by the Tenants and Owners Development Corporation ("TODCO"). This investigation concerns allegations of kickbacks and nonperformance of rehabilitation work committed by certain TODCO persons. This division also assists the District Attorney in the investigation of possible criminal actions by TODCO, its staff and officers, or both.

#### REHABILITATION ASSISTANCE PROGRAM

The Residential Rehabilitation Assistance Program (RAP) has been underway for a number of years in San Francisco in two (2) designated areas: the Inner Richmond and the Upper Ashbury. The City has sold approximately \$14 million of Residential Rehabilitation Revenue Bonds, the proceeds of which are being used to fund rehabilitation loans in these areas. The Special Projects Division reviewed the summary of financial information, the bond resolution, and other documents necessary for the sale and delivery of the bonds.

During recent formal reconsideration of the Upper Ashbury Program, this Division prepared legal opinions and made presentations to the Board of Supervisors regarding the legality of using CDBG monies in the administration of the Upper Ashbury RAP program. As a result of a series of hearings before the Board of Supervisors the Upper Ashbury program was continued.





This Division has attended numerous meetings regarding the proposed North of Market RAP program and is presently reviewing the summary of financial information, bond resolution, and other documents necessary for the sale and delivery of the North of Market RAP bonds.

This Division also assisted each department in the City concerned with the operation of the RAP program, provided legal opinions interpreting RAP rules, and helped draft changes in the RAP regulations regarding rent stabilization. Also, during this year this Division satisfactorily settled two lawsuits regarding RAP, avoiding the expense of trials.

### ECONOMIC DEVELOPMENT COUNCIL

The Special Projects Division serves as counsel to the Mayor's Economic Development Council ("EDC"). The EDC is that office of the City concerned with assisting small and medium sized businesses with the development and financing of business expansion and new ventures. Funding for economic development comes primarily from HUD monies (transferred from OCD) and the United States Small Business Administration.

The Special Projects Division assists EDC in all legal matters arising in the acquisition of monies from the United States, and the "packaging" of "loan packages" between the City, the United States, private business and any commercial institutions involved.

The EDC and this Division were also instrumental in the creation and implementation of the San Francisco Industrial Development Authority. This Division serves as counsel for this Authority and assists bond counsel in the preparation of documents related to the issuance of tax-exempt industrial development bonds.

The EDC also has primary responsibility for the development of Urban Development Action Grants ("UDAG"). This Division actively assists EDC in the negotiation and documentation of contractual agreements between the City, HUD, and the private developer including the UDAG Grant Agreement.

This Division is presently involved in the Ocean Beach UDAG, the Fillmore UDAG, and the North of Market Hotel UDAG. Beyond this Division's involvement with the negotiation and drafting of terms for each UDAG project between the City and the private developer, this Division acts as sole liaison with the UDAG grant division of HUD during the final negotiation and drafting of the final UDAG Grant Agreement between the City and HUD.



This Division also assists EDC in the proper formation and operation of various nonprofit local development corporations eligible to participate in various HUD and SBA economic development programs.

### PARKING AUTHORITY

The Special Project Division is counsel for the San Francisco Parking Authority. A Division attorney attends the monthly meetings of the Parking Authority and the Division reviews Authority contracts and leases and answers any legal questions which may arise.

This Division is currently working with the Parking Authority in drafting all of the legal documents and necessary resolutions and ordinances to provide for the construction of a new garage in the vicinity of the George R. Moscone Convention Center.

The Special Projects Division is also working with the Parking Authority on the issue of housing within the air space above the Moscone Center Garage.

The Special Projects Division actively assisted the Parking Authority in the final negotiations and documentation of the varied contractual agreements necessary for the Performing Arts Center Garage. Construction of this garage will commence in August 1981. At the request of the Board of Supervisors and the Parking Authority this Division has been intensely involved in negotiations with private developers and the Redevelopment Agency regarding the construction of housing in the air space above the Performing Arts Center Garage.

This Division also worked with the Parking Authority in the successful renewal of the Civic Plaza Garage lease providing for the redemption of nearly \$1 million in bonds.

This Division has also worked with the Parking Authority to resolve the issues concerning excess funds held by Portsmouth Plaza Garage and Uptown Parking Garage. This Division has attended a number of meetings regarding these two garages, including discussions with bond holders and trustees, regarding the call or sale of Portsmouth bonds. This Division has been negotiating with Portsmouth and Uptown garages seeking binding agreements regarding use of surplus funds by those two garages.





XI. DEPARTMENT OF SOCIAL SERVICES DIVISION



## XI. DEPARTMENT OF SOCIAL SERVICES DIVISION

A comprehensive range of services are provided to the people of San Francisco through the Department of Social Services. These programs and the administration of department as a whole are subject to federal and state statutes and regulations, the Charter and codes of the City and County of San Francisco, and decisions of the courts.

The Department of Social Services, with the responsibility for almost 2,000 employees and a budget of 168,000,000 is in the position of requiring constant and comprehensive legal services. These services, as detailed below, are provided by the City Attorney's Office, through the Deputy City Attorneys and paralegal staff assigned full-time to the Department Social Services Division, in coordination with the general legal services provided by the main office of the City Attorney.

### LEGAL ADVICE AND OPINIONS

Problems, both large and small, are encountered on a daily basis by the Social Services Commission, the administration, and the staff of DSS. With the provision of services to the citizens of San Francisco, the Department comes up against problems of confidentiality, enforcement of the laws and regulations affecting these programs, and compliance with the dictates of the federal and states funding sources.

In order to provide the legal advice to contend with these problems, the division staff are required to maintain an ongoing awareness of the most current statutes and regulations governing social service programs, and the case law that affects them.

This office also provides legal advice and counsel to the Social Services Commission, which has the responsibility for the administration of the Department. The Head Attorney of the Department of Social Services Division attends each meeting of the Social Services Commission and provides it with legal advice to assist the commissioners' direction of the Department policy on an immediate, as well as long range basis.

The programs and services provided by the Department of Social Services interact with many other city agencies, i.e. Director of Purchasing, Controller, and Mayor's Office, and the Board of Supervisors. The Social Services Division consults with and provides legal advice to these agencies, in conjunction with the main office of the City Attorney, to help coordinate the interconnected functions of these city departments.



The administration of the services and programs mentioned herein requires the department's compliance with statutes and regulations of both the federal and state governments, provisions of the City Charter and Administrative Code, and case decisions. It is important for the operation of the Department that these interwoven controlling factors be understood and properly applied by the DSS staff. To this end, this office provides training sessions and memoranda to inform the staff and administration of the legal responsibilities of these procedures.

Pending legislation and proposed regulations pertaining to social services are reviewed and summarized by this division to keep the Department of Social Services advised of their obligations.

Litigation pending in other jurisdictions that is of interest to this Department is followed closely by this office, and communication with other county counsel, District Attorneys' Offices, the state and federal Attorneys General Offices, and private attorneys is maintained to insure that the Department is kept up-to-date in all legal areas of social services.

### CONTRACTS

It is necessary for the Department of Social Services, to contract with outside providers in order to provide the extensive number of service programs mandated by federal and state law, to the citizens of San Francisco.

The legal advice and consultation involved in these contracts includes contact with the other city agencies involved in the municipal contracting process. This division therefore worked closely with the staff of the Purchaser regarding, for example, Invitations for Bids and required Bid information for the Food Stamp and Homemaker Chore Services contracts. This fiscal year was the first time that the City was not involved in litigation surrounding the award of these contracts since they were first put out to bid in 1976. The division provides consultation in the drafting of all contracts, and approves them as to form. This year it assisted the Department in drafting new form contracts for consultation and special services not provided by City departments or personnel.

### CHILD WELFARE SERVICES

The Department is in the position of having primary responsibility for children in both in-home supervision, and





out-of-home placement situations. The Department is responsible for providing protective services to children, family reunification programs, actions to free children for adoption, adoption services and other long-range planning to improve the quality of the lives of children dependents of the Juvenile Court and non-dependents.

This office provides legal advice to the Department throughout all Juvenile Court dependency actions, and legal representation in any contested actions. Legal advice and services are given to the Department during detention proceedings to determine if a child requires immediate protective custody, and during jurisdictional hearings to determine whether a child should be made a dependent of the Juvenile Court.

Dispositional hearings to decide whether a child should have in-home supervision or out-of-home placement, and annual status review hearings also require legal advice from this division, as well as representation in any contested matters.

A petition to modify or terminate a dependency order may be brought by DSS, the parent, or any interested person who feels that the modification would be in the best interest of the child. The deputies in this division provide advice on the petition, and representation if petition is contested.

In all actions to terminate parental rights and to free children for adoption brought under the Freedom from Parental Custody and Control Act (CC 232, et seq.), and the Uniform Parentage Act (CC 7000, et seq.), this office provides the Department with legal advice and representation in Superior Court trials of these complex and highly contested actions. Over 52 children were freed for adoption in fiscal year July 1980-June 1981.

With the responsibility for these dependent children comes the necessity for the Department to provide service and assistance for their care. DSS's licensing of day care, foster care, and mental hygiene facilities, and its provision of financial assistance through programs including AFDC, AFDC-BHI, Aid for Adoption, Medi-Cal and others produces legal questions, and sometimes results in litigation, which requires advice and representation from the City Attorney's Office to help facilitate the provision of quality services for these children.

#### ADULT SOCIAL SERVICES

Title XX of the Social Security Act requires that the Department provide social services for aged, blind and disabled



applicants, and recipients of federal and state financial assistance. These services include Protective Services for Adults, In-Home Supportive Services, Out-of-Home Services, Health Related Services, and Special Services for Developmentally Disabled. The Department also provides licensing services for both residential care homes for the elderly and community care facilities for the developmentally and mentally disabled.

The Adult Services Division of DSS is responsible for the administration of these programs, including compliance with governmental regulations, and overseeing of services provided by outside providers, and this office provides advice as to the legal status of the Department's activities.

State statutes also make the Department responsible for pursuing conservatorship or guardianship for individuals who are incapable of handling their own affairs or taking care of their own persons, and the City Attorney's Office is required to provide representation in these actions on behalf of the recipient when the recipient cannot secure the services of a private attorney.

#### ADMINISTRATIVE PROCEEDINGS

This division also assists the Department with legal advice and representation in administrative proceedings concerning fiscal disputes with the State and Federal governments. In this past year this division has assisted the Department in resisting the imposition of a \$396,802 federal claim based on a food stamp audit exception and a \$721,203 state sanction based on San Francisco's AFDC error rate.

#### FRAUD CLAIMS

Each year the Department of Social Services processes thousands of claims against recipients. These claims are based on fraudulent representation of eligibility requirements, liens against after acquired property of General Assistance recipients, receipt of duplicate aid, etc.

Through frequent communication between this division and the Collections, Overpayment, and Special Investigations Units of DSS, the method of referring cases of fraudulent overpayment to this office for possible civil action has continued to improve and we are now receiving an average of 10-11 referrals a month in this area.



In response to these referrals, this division provides the legal advice and representation necessary to protect the City's interest in these claims. These services include determination of the legal sufficiency of each claim, the filing of and legal representation in civil actions brought against recipients who have committed fraud, negotiation of settlements of uncontested claims, and the giving of advice and assistance to the Department on the procedures for executing on judgments obtained through civil actions. The City Attorney's Office provides representation of DSS in U.S. Bankruptcy Court by bringing actions to have these claims declared nondischargeable when recipients file for bankruptcy.

Between July 1, 1980 and June 30, 1981, our office filed 137 complaints with total prayers of \$1,280,211.61 in Superior, Municipal, and Bankruptcy courts to protect the Department's interest in recovering welfare fraud claims. During that time, we have obtained 18 judgments and settlements amounting to \$108,763.46. These figures represent over a 300% increase in both the number of cases filed and the total dollar amount of judgments in favor of the City from the previous fiscal year.





## XII. FIVE YEAR STATISTICAL SUMMMARY





APPENDIX A  
CLAIMS FILED

PAYING DEPARTMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
*AIRPORT	105	92	106	191	447
*CENTRAL PERMIT BUREAU					
*CLEANWATER			10	20	3
*FINE ARTS MUSEUMS	1		12	8	2
*HETCH HETCHY		8	6	3	26
*MOSCONE CONV. CENTER					3
*MUNICIPAL RAILWAY	2522	2582	2511	2672	2546
*OFFICE OF COMMUNITY DEVEL					
*PARKING AUTHORITY	1	4	10	5	11
*PORT COMMISSION	27	36	25	24	30
*PUBLIC UTILITIES COMM.		1	4		2
*RAP					
*SOCIAL SERVICES	9	5	25	38	19
*WATER	81	107	82	149	132
	2,746	2,835	2,791	3,110	3,221

CLAIMS FILED

GENERAL FUND DEPARTMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
ADULT PROBATION		1	2		1
AGRICULTURAL COMM.				1	2
ARCHITECT		2			
ART COMMISSION		8	5		8
ASSESSMENT APPEALS BOARD					
ASSESSOR	1	1			1
BOARD OF PERMIT APPEALS					
BOARD OF SUPERVISORS	2	4	10	3	5
CAO			4		
CITY ATTORNEY	6	2	5	8	2
CITY PLANNING	1	2	3	2	3
CIVIL SERVICE COMMISSION	3	6	4	2	3
COMMISSION ON THE AGING					1
COMMUNITY COLLEGE		6	4	1	3
COMMUNITY MENTAL HEALTH					
CONTROLLER	5	8	4		3
CORONER		5	1	3	
COUNTY CLERK		4	1	1	
DISTRICT ATTORNEY	9	21	12	20	17
ELECTRICITY	27	29	19	16	15
FARMERS MARKET			1		
FIRE	82	63	111	84	89
HEALTH SERVICE SYSTEM			2		
HOUSING AUTHORITY	29	15	13	5	13



APPENDIX A  
(CONTINUED)  
CLAIMS FILED

HUMAN RIGHTS COMMISSION					
JUVENILE COURT	9	9	1	10	2
JUVENILE PROBATION					
LEGION OF HONOR		1			
LIBRARY	4		6	4	3
LIGHT, HEAT & POWER		2	1	2	2
MAYOR		1	8	5	11
MISC		24	20		8
MODEL CITIES		1			
MUNICIPAL COURT		5	18	7	9
POLICE	592	722	840	815	838
PUBLIC ADMINISTRATOR			1	1	
PUBLIC DEFENDER	1	1	3	9	1
PUBLIC HEALTH	99	175	123	150	138
PUBLIC WORKS	432	518	464	505	477
PURCHASER		1	2	2	9
REAL ESTATE	3	2	2	5	3
RECORDER					4
RECREATION & PARK	144	127	126	137	138
REDEVELOPMENT AGENCY	6	4	9	1	3
REGISTRAR OF VOTERS	6	3	5	10	5
RENT ARBITRATION BOARD					
RETIREMENT	3		4	1	2
SHERIFF	62	110	82	61	103
SPCA		3			
SUPERIOR COURT	7	4	4		3
TAX COLLECTOR	5	3	8	3	2
TREASURER		2	4	2	2
UNIFIED SCHOOL DIST	29	20	21	13	24
WAR MEMORIAL	16	2	1		5
YOUTH GUIDANCE CENTER		4	2	1	4
ZONING ADMINISTRATOR					
	1,583	1,921	1,956	1,890	1,962
	4,329	4,756	4,747	5,000	5,183



APPENDIX B  
CASES FILED

PAYING DEPARTMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
*AIRPORT	14	16	5	24	21
*CENTRAL PERMIT BUREAU				1	1
*CLEANWATER			6	14	5
*FINE ARTS MUSEUMS				1	
*HETCH HETCHY	4	2	1	5	2
*MOSCONE CONV. CENTER					
*MUNICIPAL RAILWAY	399	431	365	477	360
*OFFICE OF COMMUNITY DEVEL					1
*PARKING AUTHORITY	2		2	3	3
*PORT COMMISSION	14	14	24	23	10
*PUBLIC UTILITIES COMM.	7	4	3		30
*RAP					
*SOCIAL SERVICES	6		13	29	160
*WATER	19	13	15	29	23
	465	480	434	606	616

CASES FILED

GENERAL FUND DEPARTMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
ADULT PROBATION	2	1	2		
AGRICULTURAL COMM.					
ART COMMISSION	1	1		1	
ASSESSMENT APPEALS BOARD		1			1
ASSESSOR	23	12	7	18	4
BOARD OF PERMIT APPEALS	9	9	7	4	5
BOARD OF SUPERVISORS	24	15	7	9	8
CAO	1	2			
CITY ATTORNEY	1	1	2	2	2
CITY PLANNING	3	1	6	5	5
CIVIL SERVICE COMMISSION	16	16	8	16	6
COMMISSION ON THE AGING		1			2
COMMUNITY COLLEGE	7	2	4	5	8
COMMUNITY MENTAL HEALTH					
CONTROLLER	16	4	2	2	2
CORONER			1		
COUNTY CLERK	2	4			
DISTRICT ATTORNEY	3	3	1	3	7
ELECTRICITY	3	4	2	3	
FARMERS MARKET	1				
FIRE	12	10	6	9	15
HEALTH SERVICE SYSTEM					3
HOUSING AUTHORITY	1		1	1	1
HUMAN RIGHTS COMMISSION	1				





APPENDIX B  
(CONTINUED)  
CASES FILED

JUVENILE COURT	2		3	3	3
JUVENILE PROBATION	2	1			
LEGION OF HONOR					
LIBRARY	1	2			1
LIGHT, HEAT & POWER					1
MAYOR	5	3	3	7	5
MODEL CITIES					
MUNICIPAL COURT	7	6	2		2
POLICE	88	89	93	115	132
PUBLIC ADMINISTRATOR	1		1	2	
PUBLIC DEFENDER				1	1
PUBLIC HEALTH	20	21	32	25	47
PUBLIC WORKS	167	129	140	111	91
PURCHASER	2		4	2	5
REAL ESTATE	7	7	17	19	14
RECORDER				1	
RECREATION & PARK	28	34	18	24	37
REDEVELOPMENT AGENCY	3	3	2		1
REGISTRAR OF VOTERS	4	9	4	2	6
RENT ARBITRATION BOARD				2	
RETIREMENT	17	22	56	66	85
SHERIFF	18	7	10	9	12
SUPERIOR COURT	4		5	4	13
TAX COLLECTOR	15	3	9	6	10
TREASURER			1	1	
UNIFIED SCHOOL DIST	54	32	29	15	49
WAR MEMORIAL			1	1	7
YOUTH GUIDANCE CENTER	1	1			
ZONING ADMINISTRATOR		1			
	572	457	486	494	591
	1,037	937	920	1,100	1,207



APPENDIX C  
ACTIONS CONCLUDED

PAYING DEPARTMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
*AIRPORT	45	12	3	22	8
*CENTRAL PERMIT BUREAU					
*CLEANWATER					1
*FINE ARTS MUSEUMS	1	1			
*HETCH HETCHY		4		5	7
*MOSCONE CONV. CENTER					
*MUNICIPAL RAILWAY	353	370	356	468	422
*OFFICE OF COMMUNITY DEVEL					
*PARKING AUTHORITY		1	2	2	
*PORT COMMISSION	7	3	6	7	13
*PUBLIC UTILITIES COMM.	2	1		3	2
*RAP					2
*SOCIAL SERVICES	4	3	4	5	28
*WATER	16	14	13	19	28
	428	409	384	531	511

ACTIONS CONCLUDED

GENERAL FUND DEPARTMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
ADULT PROBATION	3				
AGRICULTURAL COMM.					
ART COMMISSION	1				1
ASSESSMENT APPEALS BOARD		1		1	1
ASSESSOR	42	6	7	15	4
BOARD OF PERMIT APPEALS	6	19	9	13	3
BOARD OF SUPERVISORS	9	11	8	11	9
CAO				3	
CITY ATTORNEY		1		2	
CITY PLANNING		3	3	16	7
CIVIL SERVICE COMMISSION	11	10	11	15	7
COMMISSION ON THE AGING					1
COMMUNITY COLLEGE	4	2	1	4	4
COMMUNITY MENTAL HEALTH					
CONTROLLER	3	11	1	2	5
CORONER				2	
COUNTY CLERK	1			1	4
DISTRICT ATTORNEY	4	2		2	1
ELECTRICITY	3	4	2	3	5
FARMERS MARKET		1			
FIRE	10	10	6	9	10
HEALTH SERVICE SYSTEM					1
HOUSING AUTHORITY	3	1	1	2	
HUMAN RIGHTS COMMISSION					



APPENDIX C  
(CONTINUED)  
ACTIONS CONCLUDED

JUVENILE COURT	1				
JUVENILE PROBATION					
LEGION OF HONOR					
LIBRARY	1	2	3		1
LIGHT, HEAT & POWER					
MAYOR	3			5	6
MODEL CITIES		1	1	1	
MUNICIPAL COURT	7	3	3	4	4
POLICE	95	108	71	132	75
PUBLIC ADMINISTRATOR					
PUBLIC DEFENDER				1	1
PUBLIC HEALTH	18	24	9	33	16
PUBLIC WORKS	109	135	112	150	139
PURCHASER	1			1	2
REAL ESTATE	1	7	6	6	2
RECORDER					1
RECREATION & PARK	22	20	24	23	21
REDEVELOPMENT AGENCY	3	4	2	9	1
REGISTRAR OF VOTERS	7	2	8	2	5
RENT ARBITRATION BOARD					
RETIREMENT	16	38	6	19	14
SHERIFF	8	6	7	7	7
SUPERIOR COURT			2	3	5
TAX COLLECTOR	2	9		7	6
TREASURER				2	1
UNIFIED SCHOOL DIST	28	40	24	38	39
WAR MEMORIAL	1	4		1	1
YOUTH GUIDANCE CENTER		3		1	
ZONING ADMINISTRATOR					1
	422	489	327	546	411
	850	898	711	1,077	922



APPENDIX D  
PENDING ACTIONS

PAYING DEPARTMENTS

	6-30-77	6-30-78	6-30-79	6-30-80	6-30-81
*AIRPORT	89	93	95	97	110
*CENTRAL PERMIT BUREAU				1	2
*CLEANWATER			6	19	23
*FINE ARTS MUSEUMS	7	6	6	7	7
*HETCH HETCHY	21	19	20	20	15
*MOSCONE CONV. CENTER					
*MUNICIPAL RAILWAY	1015	1076	1086	1095	1033
*OFFICE OF COMMUNITY DEVEL					1
*PARKING AUTHORITY	4	3	3	4	7
*PORT COMMISSION	41	52	70	86	83
*PUBLIC UTILITIES COMM.	1	4	7	4	32
*RAP	2	2	2	2	
*SOCIAL SERVICES	67	64	73	97	229
*WATER	75	74	76	86	81
	1,322	1,393	1,444	1,518	1,623

PENDING ACTIONS

GENERAL FUND DEPARTMENTS

	6-30-77	6-30-78	6-30-79	6-30-80	6-30-81
ADULT PROBATION	1	1	3	3	3
AGRICULTURAL COMM.					
ART COMMISSION		1	1	1	1
ASSESSMENT APPEALS BOARD	1	1	1	1	1
ASSESSOR	70	76	76	79	79
BOARD OF PERMIT APPEALS	21	11	9		2
BOARD OF SUPERVISORS	49	45	48	46	45
CAO				1	
CITY ATTORNEY	2	2	4	4	6
CITY PLANNING	32	30	33	22	20
CIVIL SERVICE COMMISSION	54	60	57	59	57
COMMISSION ON THE AGING		1	1	1	3
COMMUNITY COLLEGE	15	15	3	4	8
COMMUNITY MENTAL HEALTH			15	15	15
CONTROLLER	29	22	23	23	20
CORONER	1		1		
COUNTY CLERK	4	8	8	9	5
DISTRICT ATTORNEY	6	7	8	9	15
ELECTRICITY	10	10	10	10	5
FARMERS MARKET	1				
FIRE	28	28	22	28	33
HEALTH SERVICE SYSTEM				2	
HOUSING AUTHORITY	4	3	3	2	3
HUMAN RIGHTS COMMISSION	1	1	1	1	1
JUVENILE COURT	4	3	6	9	12





APPENDIX D  
(CONTINUED)  
PENDING ACTIONS

JUVENILE PROBATION		1	1	1	1
LEGION OF HONOR	1	1	1	1	1
LIBRARY		4	4	1	1
LIGHT, HEAT & POWER	1	1	1	1	2
MAYOR	11	14	17	19	18
MODEL CITIES					
MUNICIPAL COURT	25	28	27	23	21
POLICE	371	352	374	357	414
PUBLIC ADMINISTRATOR	1	1	2	4	4
PUBLIC DEFENDER					
PUBLIC HEALTH	81	78	101	93	124
PUBLIC WORKS	513	507	539	500	453
PURCHASER	3	3	7	8	11
REAL ESTATE	44	44	45	68	80
RECORDER			1	2	1
RECREATION & PARK	74	88	82	83	99
REDEVELOPMENT AGENCY	13	12	12	3	3
REGISTRAR OF VOTERS	31	38	33	33	34
RENT ARBITRATION BOARD				2	2
RETIREMENT	48	32	82	129	200
SHERIFF	35	36	39	41	46
SUPERIOR COURT	7	7	10	11	19
TAX COLLECTOR	36	30	39	38	42
TREASURER	1	1	2	1	
UNIFIED SCHOOL DIST	152	144	149	126	136
WAR MEMORIAL	5	1	2	2	8
YOUTH GUIDANCE CENTER	8	6	6	5	5
ZONING ADMINISTRATOR	1	2	2	2	2
	1,795	1,756	1,911	1,883	2,061
	3,117	3,149	3,355	3,401	3,684



APPENDIX E  
WORK ASSIGNMENTS

	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>
*AIRPORT	0	1	4	0	3
*BLHP					
*CANDLE					
*CWATER	1	0	1	1	
*DSS	77	54	40	38	45
*FAM					
*HETCH					
*MOET	2	2	1	4	6
*MOS CEN.					
*OCD		1	1	3	18
*OPEN					
*P. AUTH.	0	2	4	0	
*PORT		3	2	1	0
*PUC	4	0	11	4	
*PUC/MUNI	1	3	4	1	2
*SFWD					
*SOLID W					
	85	66	68	52	74
AAM	1	0			
AD.PRO.	5	1	1	3	2
AGING	3	2	0	6	2
ART COM.	11	7	4	1	0
ASSESSOR		11	6	1	4
ASSMT	2	1	0	0	1
B. OF S.	313	230	179	289	336
BPA	1	1	3	3	10
C.ATTY	1	3	1	0	2
CAO	10	3	5	6	3
CEN PER	0	1			
CH COM	1	1			1
CIV.SER.	42	20	19	17	14
CMH			1	0	1
COM.COL.			1	2	
CONT.		4	2	6	5
CTY CL			2	3	
CTY.PLAN	25	15	36	39	43
D.ATTY	6	5	6	1	3
DEV DIS					
DIR.F/R	0	1			
DPH	33	12	9	13	13
DPW	12	18	7	25	18
EDC					
ELEC.					



APPENDIX E  
WORK ASSIGNMENTS  
(CONTINUED)

EMER SER	0	0	0	2	1
EMS					
ERD					
FARM	2	0			
GEN HSP					
HEAL SER	3	1	0	1	
HOUSING	1	1	1	1	6
HRC					
INFO					
JUV PRO					
JUV. CT.	1	2	4	4	4
L/HON					
LIB.	4	6	1	0	4
MAYOR	39	28	32	32	40
MUNI CT.	4	4	2	1	2
PARK	12	8	28	12	15
PLAN PER					
PPB					
PUB. AD.	0	1	1	0	
PUB.DEF.	0	1	0	1	1
PUR.	4	2	2	2	1
REC			2	1	4
REDEVE.	0	1			
REG.VTR.	4	2	1	9	10
RENT BD.			0	5	4
RET.	1	2	3	2	3
RL.EST.	0	5	5	6	12
SFFD	17	7	11	30	23
SFPD	21	23	17	31	31
SFUSD	7	2	5	3	2
SHERIFF	5	2	0	2	
SMS					
SUP.CT.	2	1	1	3	2
TAX COL	3	1	3	6	4
TREAS		3	1	4	3
WAR			2	2	1
	596	439	225	575	631
	681	505	293	627	705







ANNUAL REPORT OF THE CITY ATTORNEY

CITY AND COUNTY OF SAN FRANCISCO

JULY 1, 1981 - JUNE 30, 1982

GEORGE AGNOST  
CITY ATTORNEY

DOCUMENTS DEPT.

NOV 26 1984

SAN FRANCISCO  
PUBLIC LIBRARY



ANNUAL REPORT OF THE CITY ATTORNEY  
CITY AND COUNTY OF SAN FRANCISCO

JULY 1, 1981 - JUNE 30, 1982

GEORGE AGNOST  
CITY ATTORNEY



## TABLE OF CONTENTS

	<u>Page</u>
I. LITIGATION	1
1. Litigation Concluded in Fiscal Year	2
Tort Litigation	2
Nontort Litigation	2
Abatement Actions	2
Workers' Compensation and Subrogation Proceedings	3
STATISTICAL SUMMARY	4
II. APPELLATE LITIGATION	15
III. LEGISLATIVE SECTION	21
IV. PUBLIC UTILITIES SECTION	26
Hetch Hetchy Power and Water Supply	27
San Francisco Water Department	28
The Municipal Railway	29
V. RETIREMENT BOARD	31
Retirement Board Hearings and Other Legal Matters	32
Court Litigation	32
State Workers' Compensation Appeals Board Proceedings and Suits in Intervention	33



## TABLE OF CONTENTS

	<u>Page</u>
VI. RATE SECTION	35
Telephone Refunds	36
Utility Cases	36
Other Departments	37
VII. PORT DIVISION	38
Introduction	39
Services Rendered	39
A. Leases, licenses and other agreements	39
B. Advice and opinions	40
C. Litigation	40
D. Claims	41
E. Construction Contracts	41
F. Unlawful Detainers and Collections	41
G. Civil Service and Personnel Matters	41
H. Governmental Matters	42
VIII. AIRPORTS DIVISION	43
General	44
Services Rendered	44





## TABLE OF CONTENTS

	<u>Page</u>
A. Leases, permits and concession agreements	44
B. Claims and litigation	44
C. Construction contracts	45
D. Dismissal and suspension proceedings	45
E. Revenue bonds	45
F. Environmental matters	46
G. Opinions and advice	46
IX. CODE ENFORCEMENT SECTION	48
Abatement Cases	49
New Abatement Cases Received During Year	49
Enforcement Activities	50
Suits filed	50
Cases Terminated	51
Summary and End of The Year Inventory	52
Advice to City Departments Involved in Code Enforcement	53
Legislation	54
Condominium Conversion	54



## TABLE OF CONTENTS

	<u>Page</u>
X. SPECIAL PROJECTS DIVISION	55
Clean Water Program	56
Solid Waste Management Program	58
Candlestick Park Stadium	58
Office of Housing and Community Development	59
Rehabilitation Assistance Program	61
Economic Development Council	61
Parking Authority	62
XI. DEPARTMENT OF SOCIAL SERVICES DIVISION	63
Legal Advice and Opinions	64
Contracts	65
Child Welfare Services	65
Adult Social Services	66
Administrative Proceedings	67
Fraud Claims	67
XII. FIVE YEAR STATISTICAL SUMMARY	69
Appendix A-E	70



## I. LITIGATION





# I. LITIGATION

The City Attorney's Office handles civil litigation involving the City and County, the San Francisco Unified School District and the Community College District. This office represents these entities in all courts from small claims to the United States Supreme Court. During this fiscal year, we recovered by settlements and judgments \$988,560.00. Enumerated below are the statistical tables for fiscal year 1981-1982 and additional statistics appear in the appendices.

## 1. LITIGATION CONCLUDED IN FISCAL YEAR

Litigated actions concluded, 1,820, during fiscal year 1981-82 are as follows:

### TORT LITIGATION

Tort Actions	899
Nontort Actions	206
Abatement Actions	257
Workers' Compensation and Subrogation Actions	438
Appellate Litigation	<u>20</u>
Total	1,820

Tort actions concluded, 899, sought damages for injuries to persons and property and for death.

See Table 1 at the end of this chapter for summary of tort actions concluded.

Table 2 lists a summary of concluded tort litigation by departments, judgments paid, settlements and cases won or dismissed.

### Nontort Litigation

The nontort actions concluded, 206, consisted mainly of writ proceedings (mandamus, prohibition, certiorari), contract, eminent domain, tax and injunction proceedings.

Table 3 in this chapter lists the summary of the departments involved.

### Abatement Actions

Abatement actions concluded, 257, were actions taken to abate nuisances from violations of building, health, housing and related laws and ordinances, instituted after unsuccessful efforts of the departments concerned to eliminate the nuisance.



Chapter IX of this report shows the details of this activity.

#### Workers' Compensation and Subrogation Proceedings

Proceedings before the Workers' Compensation Appeals Board concern applications filed by employees of the City, School District and the Community College District for injuries or death incurred within the scope of employment. The office attended 828 hearings relating to 692 applications.

See Chapter V of this report for details.



## STATISTICAL SUMMARY



TABLE 1

SUMMARY OF 899 TORT ACTIONS  
CONCLUDED DURING FISCAL YEAR 1981-82

<u>Department</u>	<u>No. of Cases</u>	<u>Judgments Paid</u>	<u>Litigated Settlements</u>	<u>Won or Dismissed</u>
AIRPORT	20	1	18	1
ART COMMISSION	1	0	1	0
B L H P	2	0	2	0
CHIEF ADMIN. OFFICER	1	0	1	0
CITY ATTORNEY	1	0	1	0
CLEAN WATER	1	0	1	0
COMMUNITY COLLEGE DISTR.	3	0	3	0
CONTROLLER	1	0	1	0
ELECTRICITY	2	0	1	1
FIRE DEPARTMENT	13	1	10	2
HEALTH	22	1	13	8
HOUSING AUTHORITY	2	0	0	2
JUVENILE COURT	3	0	3	0
MUNICIPAL RAILWAY	413	35	263	115
PARKING AUTHORITY	1	0	1	0
POLICE DEPARTMENT	76	5	52	19
PORT COMMISSION	28	0	14	14
PUBLIC UTILITIES COMM.	1	0	1	0
PUBLIC WORKS	134	5	86	43
PURCHASING	1	0	1	0
REAL ESTATE	4	0	4	0
RECREATION & PARK DEPT	22	2	16	4
RETIREMENT	2	0	2	0
S. F. UNIFIED SCHOOL DIST	28	5	18	5
SHERIFF'S DEPT	4	0	3	1
SOCIAL SERVICES	95	0	1	94
WAR MEMORIAL	1	0	0	1
WATER DEPARTMENT	17	0	12	5
 TOTAL	 899	 55	 529	 315





TABLE 2

TORT ACTIONS CONCLUDED 899  
FISCAL YEAR 1981-82  
DEPARTMENTS - AMOUNTS PAID

<u>Department</u>	<u>No. of Cases</u>	<u>Prayers</u>	<u>Amount Paid</u>
AIRPORT	20	692,156.00	41,100.00
ART COMMISSION	1	50,150.00	200.00
B L H P	2	597,540.00	0
CHIEF ADMIN. OFFICER	1	0	0
CITY ATTORNEY	1	15,682.00	2,000.00
CLEAN WATER	1	1,500,00.00	35,000.00
COMMUNITY COLLEGE	3	352,142.00	19,100.00
CONTROLLER	1	10,000.00	2,000.00
ELECTRICITY	2	210,302.00	1,500.00
FIRE DEPARTMENT	13	768,406.00	49,825.00
HEALTH	22	3,238,106.00	138,792.00
HOUSING AUTHORITY	2	30,000.00	0
JUVENILE COURT	3	270,793.00	16,250.00
MUNICIPAL RAILWAY	413	50,506,775.00	3,749,605.00
PARKING AUTHORITY	1	26,865.00	2,000.00
POLICE DEPARTMENT	76	38,377,087.00	420,134.00
PORT COMMISSION	28	1,051,521.00	7,500.00
PUBLIC DEFENDER	0	0	0
PUBLIC UTILITIES COMM.	1	118,777.00	0
PUBLIC WORKS	134	26,838,008.00	535,191.00
PURCHASING	1	19,700.00	6,000.00
REAL ESTATE	4	421,965.00	16,750.00
RECREATION & PARK DEPT	22	1,161,483.00	66,059.00
RETIREMENT	2	0	0
S. F. UNIFIED SCHOOL DIST	28	5,278,289.00	377,365.00
SHERIFF'S DEPT	4	267,212.00	6,600.00
SOCIAL SERVICES	95	0	*
SUPERIOR COURT	0	0	0
WAR MEMORIAL	1	13,035.00	0
WATER DEPARTMENT	17	210,541.00	24,007.00
 TOTAL	 899	 132,026,535.00	 5,516,978.00

\* \$988,560 recovered for City by judgments and settlements. Social Service: \$325, 224; all other departments: \$663,336.



TABLE 3

SUMMARY OF 206 NONTORT ACTIONS  
CONCLUDED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Actions</u>
AIRPORT	4
ASSESSOR	13
BOARD OF PERMIT APPEALS	9
BOARD OF SUPERVISORS	6
CITY ATTORNEY	1
CIVIL SERVICE COMMISSION	44
COMMISSION ON AGING	1
CONTROLLER	3
COUNTY CLERK	1
DISTRICT ATTORNEY	1
HEALTH	4
JUVENILE COURT	1
MAYOR	2
MUNICIPAL COURT	3
MUNICIPAL RAILWAY	2
PARKING AUTHORITY	1
PLANNING COMMISSION	1
POLICE DEPARTMENT	17
PORT COMMISSION	7
PUBLIC ADMINISTRATOR	1
PUBLIC UTILITIES COMM.	7
PUBLIC WORKS	4
PUBLIC WORKS: ABATEMENT CASES (SECTION IX)	
PURCHASING	2
REAL ESTATE	39
RECREATION & PARK DEPT	1
REDEVELOPMENT AGENCY	1
RETIREMENT BOARD	4
S. F. UNIFIED SCHOOL DIST	5
SHERIFF'S DEPT	1
SOCIAL SERVICES	4
SUPERIOR COURT	4
TAX COLLECTOR	1
WATER DEPARTMENT	11
TOTAL	206



TABLE 4

SUMMARY OF CLAIMS FILED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Claims</u>
MUNICIPAL RAILWAY	2,820
ADULT PROBATION	1
AGRICULTURAL COMMISSION	0
AIRPORT	654
ART COMMISSION	3
ASSESSOR'S OFFICE	1
BOARD OF SUPERVISORS	3
BUREAU OF LIGHT, HEAT AND WATER	1
CHIEF ADMINISTRATIVE OFFICER	2
CITY ATTORNEY	8
CITY PLANNING	2
CIVIL SERVICE COMMISSION	2
CLEAN WATER	11
COMMUNITY COLLEGE	1
CONTROLLER	4
CORONER	2
COUNTY CLERK	1
DEPARTMENT OF PUBLIC HEALTH	218
DEPARTMENT OF PUBLIC WORKS	532
DEPARTMENT OF SOCIAL SERVICES	13
DISTRICT ATTORNEY	17
ELECTRICITY	8
FINE ARTS MUSEUM	6
FIRE DEPARTMENT	75
HEALTH SERVICE	2
HETCH HETCHY	7
HOUSING AUTHORITY	7
JUVENILE COURT	7
LIBRARY	1
MAYOR'S OFFICE	7
MOSCONE CONVENTION CENTER	14
MUNICIPAL COURT	28
PARKING AUTHORITY	16
POLICE DEPARTMENT	1146
PORT COMMISSION	22
PUBLIC DEFENDER	3
PUBLIC UTILITY COMMISSION	3
PURCHASING	4
REAL ESTATE	1
RECREATION & PARK DEPT	124
RECORDER'S OFFICE	5
REDEVELOPMENT AGENCY	1





TABLE 4  
(Continued)

SUMMARY OF CLAIMS FILED DURING FISCAL YEAR

<u>Department</u>	<u>No. of Claims</u>
REGISTRAR OF VOTERS	4
RENT BOARD	1
RETIREMENT	2
S. F. UNIFIED SCHOOL DIST	21
SHERIFF'S DEPT	106
SUPERIOR COURT	2
TAX COLLECTOR	1
TREASURER	0
WAR MEMORIAL	5
WATER DEPARTMENT	227
YOUTH GUIDANCE CENTER	1
MISC.	27
TOTAL NON-MUNI	3,360



TABLE 5

CLAIMS DENIED AND PAID DURING FISCAL YEARCLAIMS DENIED

	<u>No. of Claims</u>	<u>Total Amount Denied</u>
July	110	10,021,054.00
August	116	40,733,022.00
September	84	30,323,423.00
October	88	80,155,453.00
November	96	58,764,032.00
December	199	41,966,975.00
January, 1982	116	21,056,214.00
February	108	116,853,777.00
March	98	14,491,764.00
April	134	816,404,728.00
May	139	34,269,864.00
June	136	22,910,228.00
TOTAL	1,424	\$1,287,950,539.00

CLAIMS PAID

	<u>No. of Claims</u>	<u>Amount Requested</u>	<u>Amount Paid</u>
July	28	66,837.00	15,459.00
August	29	110,352.00	8,800.00
September	34	12,087.00	9,146.00
October	48	15,227.00	12,995.00
November	40	160,825.00	10,092.00
December	36	8,933.00	7,656.00
January, 1982	33	13,038.00	12,797.00
February	62	31,504.00	11,730.00
March	90	42,325.00	33,033.00
April	38	18,925.00	13,108.00
May	65	13,896.00	12,042.00
June	64	31,190.00	16,144.00
TOTAL	567	\$525,144.00	\$163,006.00



TABLE 6

SUMMARY OF ACTIONS FILED DURING FISCAL YEAR

<u>Department</u>	<u>Additions</u>
ABATEMENT (See Section IX)	284
AGRICULTURAL COMMISSION	1
AIRPORT	30
ART COMMISSION	2
ASSESSOR	1
ASSESSMENT APPEALS BOARD	1
BOARD OF PERMIT APPEALS	4
BOARD OF SUPERVISORS	6
CHIEF ADMINISTRATIVE OFFICER	1
CITY ATTORNEY	1
CITY PLANNING	7
CIVIL SERVICE COMMISSION	10
CLEAN WATER	9
COMMUNITY COLLEGE	9
CONTROLLER	1
COUNTY CLERK	5
DISTRICT ATTORNEY	4
FINE ARTS MUSEUMS	4
FIRE	17
HEALTH SERVICE SYSTEM	3
HETCH HETCHY	4
HOUSING AUTHORITY	3
HUMAN RIGHTS COMMISSION	2
LIBRARY	1
MAYOR	10
MOSCONE CONVENTION CENTER	3
MUNICIPAL COURT	12
MUNICIPAL RAILWAY	415
PARKING AUTHORITY	1
POLICE	140
PORT COMMISSION	17
PUBLIC ADMINISTRATOR	2
PUBLIC HEALTH	42
PUBLIC UTILITIES COMMISSION	11
PUBLIC WORKS	119
PURCHASER	2
REAL ESTATE	23
RECREATION & PARK DEPT	20
REGISTRAR OF VOTERS	3



TABLE 6  
Continued

<u>Department</u>	<u>Additions</u>
RENT ARBITRATION BOARD	7
RETIREMENT	74
SHERIFF'S DEPT	16
SOCIAL SERVICES	280
SUPERIOR COURT	14
TAX COLLECTOR	12
TREASURER	7
UNIFIED SCHOOL DIST	19
WATER	14
YOUTH GUIDANCE CENTER	1
TOTAL	1,673





TABLE 7

SUMMARY OF OPEN AND PENDING CASES

<u>Department</u>	<u>June 30, 1981</u>
AIRPORT	105
ABATEMENT (See Section IX)	508
ADULT PROBATION	3
AGRICULTURAL COMMISSION	1
ART COMMISSION	4
ASSESSOR	55
ASSESSMENT APPEALS BOARD	1
ASIAN ART MUSEUM	3
BOARD OF PERMIT APPEALS	13
BOARD OF SUPERVISORS	47
BUREAU OF LIGHT, HEAT & POWER	0
CENTRAL PERMIT BUREAU	2
CHIEF ADMINISTRATIVE OFFICER	1
CITY ATTORNEY	4
CITY PLANNING	60
CIVIL SERVICE COMMISSION	75
CLEAN WATER	30
COMMUNITY COLLEGE	26
COMMISSION ON AGING	2
CONTROLLER	19
COUNTY CLERK	9
DISTRICT ATTORNEY	17
ELECTRICITY	6
FINE ARTS MUSEUMS	11
FIRE DEPARTMENT	36
HEALTH SERVICE SYSTEM	7
HETCH HETCHY	20
HOUSING AUTHORITY	4
HUMAN RIGHTS COMMISSION	3
JUVENILE COURT	5
JUVENILE PROBATION	1
LIBRARY	2
MAYOR	24
MOSCONE CONVENTION CENTER	6
MUNICIPAL COURT	28
MUNICIPAL RAILWAY	1,029
PARKING AUTHORITY	4
POLICE DEPARTMENT	454
PORT COMMISSION	60
PUBLIC ADMINISTRATOR	4
PUBLIC DEFENDER	1



TABLE 7  
Continued

<u>Department</u>	<u>June 30, 1981</u>
PUBLIC HEALTH	133
PUBLIC UTILITIES COMM.	29
PUBLIC WORKS	440
PURCHASER	9
RAP	1
REAL ESTATE	58
RECORDER	2
RECREATION & PARK DEPT	94
REDEVELOPMENT AGENCY CITY AND COUNTY OF SAN FRANCISCO	4
REGISTRAR OF VOTERS	16
RENT ARBITRATION BOARD	8
RETIREMENT	268
UNIFIED SCHOOL DIST	110
UNASSIGNED AND MULTIPLE DEPARTMENTS	31
SHERIFF'S DEPT	59
SOCIAL SERVICES	321
SUPERIOR COURT	30
TAX COLLECTOR	42
TREASURER	34
WAR MEMORIAL	7
WATER DEPARTMENT	62
YOUTH GUIDANCE CENTER	4
TOTAL	4,452



## II. APPELLATE LITIGATION





## II. APPELLATE LITIGATION

The following is a compendium of cases in which final decisions were rendered during the fiscal year 1981-82. The appellate cases concluded are:

Allianz Insurance Co. v. Municipal Court, 126 Cal.App.3d 1043. A workers' compensation insurer filed a petition for writ of mandate to compel the clerk of the Municipal Court to file, in small claims court, the insurer's claims against third parties whose negligence caused injury to workers. The Court of Appeal upheld the City's position that the insurer may not file in small claims court because it is an "assignee" within the meaning of CCP §117.5, which prohibits the filing of claims in small claims court by the "assignee" of a claim. (Jesson)

Auran v. Retirement Board, 1 Civ. No. 47016 (Unpublished) Appellant resigned from the police department in 1977 and at the same time applied for an industrial disability retirement regarding an on-duty knee injury. This application was denied by the Retirement Board. After an independent review, the trial court found that the knee disability was not such as to necessitate a retirement. These decisions were affirmed on appeal. (Maguire)

Bangs v. City and County of San Francisco, 1 E49254 (unpublished). In 1974, Board of Supervisors established a City-financed dental plan. Taxpayer Bangs sued in part to have dental plan declared void. In 1975, California Superior Court held the Board of Supervisors lacked authority to enact a dental plan. The Trial Court twice refused taxpayer's request for legal fees. On February 24, 1982, the Court of Appeals for the second time reversed the Trial Court's judgment and determined that taxpayers were entitled to costs, legal fees and fees on appeal. City's petition for hearing in Supreme Court was granted on April 22, 1982. However, City and Taxpayers negotiated a settlement in June, 1982 and requested the Supreme Court to withdraw the case from the Court to withdraw the case from the Court Calendar. (Krueger)

Blackburn v. Sarsfield, 125 Cal.App.3d 143. Judgment denying writ of mandate reversed. The Court of Appeal reversed the trial court's determination that petitioner was not entitled to retroactive AFDC-BHI benefits pursuant to a state administrative hearing decision. The City prevailed at the writ hearing because the trial judge found that the administrative hearing decision was incorrect, in excess of the administrative judge's jurisdiction, and did not appear to order the relief requested by the writ. The Appellate Court reversed, however, finding the City was bound to comply with the decision, and even if City was bound to comply with the decision, and even if incorrect, pay for services which may



never have been performed pursuant to Taylor v. McKay (1975) 53 Cal.App.3d 644 and that a reasonable or correct construction of the decision was to order payment as demanded by plaintiff. (Lia)

Byrd v. San Francisco Unified School District, No. 80-4410 (unpublished). The plaintiff accused the School District of discriminating against her on the basis of her race with respect to a request to rescind an unpaid leave of absence. After a three day bench trial, the District Court entered a judgment in favor of the School District. On appeal, the Ninth Circuit affirmed the judgment. (Ward)

City and County of San Francisco v. Bank of America, (unpublished) 1 Civil 45983. City sought declaration that Contingencies Reserve Fund established with respect to Airport Revenue Bonds was not a mandatory fund but rather was subject to a low funding priority and was not a security component for payment of the bonds. After an adverse decision by the trial court, the Court of Appeal reversed and declared status of Contingency Revenue Fund to be as contended by City. (Garibaldi)

City and County of San Francisco v. Public Utilities Commission, California Supreme Court S.F. #24361. The City challenged a rate increase granted to Pacific Telephone on the grounds that the Commission had taken into account a reduction of revenues without taking into account the commensurate reduction in costs. A petition for a Writ of Review was granted by the California Supreme Court in March of 1982. Prior to oral argument, the PUC ordered \$12.8 million in refunds and rate reductions which provided the entire relief sought in our petition. On May 20, 1982, the Supreme Court dismissed our action as moot. (Snaider)

City and County of San Francisco v. Superior Court (Levine), 1 Civ. No. 53459 (unpublished). The Superior Court ordered the City to disclose certain personnel records of the San Francisco Police Department to plaintiffs Levine, et al. The City petitioned the Court of Appeal for a Writ of Mandate to restrain the Superior Court from ordering disclosure of the records. The Court of Appeals denied the petition and a Petition for Hearing to the State Supreme Court was denied. (Ward)

Cosgrove v. City and County of San Francisco, 1 Civ. No. 47501 (unpublished). This case involved approximately 150 police officers and firefighters who retired between July 2, 1975 and October 14, 1975. As a result of a compromise settlement of the Police-Fire strike in 1975, the above employees did not get the advantage of the 13% raise in their pension base. The Retirement Board allowed some police officers and firefighters to set aside their retirement and return to work only to "re-retire" after October 15, 1975 to gain the advantage of the 13% raise. At some point this practice





was stopped. The Court of Appeal determined that there was no legal requirement that the Retirement Board adjust these retirement dates in the above manner and that the pensions in question were properly calculated. (Maguire)

Dushkind v. Civil Service Commission, City and County of San Francisco, 1 Civ. No. 48429 (unpublished). Petitioner, an unsuccessful applicant for promotion via competitive civil service exam, sought a writ of mandate challenging the exam and other criteria used in making the promotion. The Court of Appeal (Division One) upheld the denial of the Petition for Writ of Mandamus, on the initial ground that petitioner failed to exhaust his administrative remedies. (Murphy)

Estate of Lock (1981) 122 Cal.App.3d 892. Appeal from an order of the Probate Court denying an executor's petition for settlement of estate accounts. The trial court's order was predicated on its conclusion that the donees of inter vivos gifts should be responsible for unpaid gift taxes and that the executor was negligent and had violated his fiduciary duties by failing to disclose the gifts or to pay the taxes until seven years after his appointment, thereby triggering substantial penalties and interest on the unpaid gift taxes. The Court of Appeal affirmed, but remanded the case for further proceedings so as to permit the estate to pay the unpaid gift taxes, while surcharging the executor for penalties and interest attributable to his non-feasance. The Probate Court was represented by the City Attorney at the specific request of the Court of Appeal. (Doherty)

Franklin v. Steele, 131 Cal.App.3d 558. The trial court granted a peremptory writ of mandate ordering the Zoning Administrator to grant a variance and approve the issuance of a building permit pursuant to a decision of the Board of Permit Appeals. The Court of Appeal reversed its directions to the trial court to deny the writ, holding that the Board of Permit Appeals was without jurisdiction to hear an appeal filed beyond the 10-day appeal period mandated by the City Planning Code. (Hermann/Boyajian/Barkley)

Hazelton v. City and County of San Francisco, No. 80-4423 (unpublished). The plaintiff filed a civil rights complaint against the City and County of San Francisco arising out of his arrest by an off-duty police officer working as a bank teller for the Bank of America. When the plaintiff declined to introduce evidence in support of his claim on the first day of trial, the case was dismissed and judgment was granted to the City. The Ninth Circuit affirmed the judgment in a brief memorandum order. (Ward)

Hotel Employers Association of San Francisco v. Gorsuch, et al. - 669 F.2d 1305. The Hotel Employers Association ("HEA") appealed a summary judgment award entered by the District Court



(Cecil F. Poole, Jr.) in favor of the Environmental Protection Agency and City, upholding the City's sewer service charge system. The 9th Circuit affirmed. HEA contended that the method associated with the treatment of wet weather flow was violative of §204(b) of the Federal Water Pollution Control Act Amendments of 1972. [33 U.S.C. §1284(b)] and constitutional equal protection guaranties. (Barrett)

Jean v. Civil Service Commission, 1 Civ. No. 46978 (unpublished). The plaintiff brought this action challenging his termination as a probationary employee in the Municipal Railway. The Civil Service Commission had approved the determination on medical grounds despite the fact that the Municipal Railway had used a disciplinary rule as a ground for the termination. The Superior Court denied a Petition for Writ of Mandate. The Court of Appeal reversed, finding that although the termination was proper on medical grounds, it was improperly labeled a disciplinary separation. The appellate court ordered the Civil Service Commission to repeat its review of the termination and expunge from its records all references to the Municipal Railway rule. (Ward)

Massachusetts Mutual Life Insurance Co. v. City and County of San Francisco (1982) 129 Cal.App.3d 876. Action by insurance company for refund of personal property taxes under Cal. Const. Art. XIII, §14-4/5, which in effect provides that the gross premiums tax on insurers shall be "in lieu of all other [non-real property] taxes" including taxes on personal property. The Court of Appeal held that the insurers "in lieu" exemption did not extend to personal property which, although owned by an insurer, was leased to third parties for use in a non-insurance business, e.g. the hotel business. This is the first ever reported decision in which an insurer has been required to pay a local entity tax (other than a real property tax). As a result of this decision, San Francisco was not required to make the requested refunds, which (together with interest) would have exceeded \$98,000. (Doherty)

Rovetti v. City and County of San Francisco, 131 Cal.App.3d 973. Plaintiffs sued for property damage to their residence caused by subsidence caused by a leaking sewer. The trial court assessed the cost to repair as of the time of trial and included damages arising from a faulty roof, unrelated to the subsidence. City appealed on the basis that damages should be assessed as of the date of injury and that there must be a showing of proximate causation. City also appealed admission of certain hearsay evidence. The Court of Appeal affirmed the lower court's decision on all points. (Foley)

Skruzny v. Barbagelata and Skruzny v. Freitas, No. 794-232 (unpublished). The plaintiff filed two civil rights lawsuits arising out of his arrest, incarceration and conviction for extortion. Both cases were dismissed by the District Court for failure to state claims for relief. The Ninth Circuit reversed the





dismissal orders on the ground that the plaintiff was entitled to amend his complaints in an effort to state some basis for relief. (Ward)

Skruzny v. City and County of San Francisco, No. 81-4483 (unpublished). The plaintiff brought this civil rights complaint alleging that evidence had been suppressed during his prosecution for extortion as a result of which he was improperly convicted. The District Court granted the City summary judgment in its favor. The Ninth Circuit affirmed the judgment in a brief memorandum opinion. (Ward)

Transamerica Title Insurance Co. v. City and County of San Francisco, 1 Civil No. 47726. This was a tax refund action pursuant to Revenue and Tax Code §5096, et seq., which sought to overturn a decision of the Assessment Appeals Board lowering the fair market value assessment of the Transamerica Pyramid. The Superior Court remanded the matter to the Board, holding that the decision was not supported by substantial evidence. The Superior Court issued two (2) orders which were in conflict with each other relative to the scope of review on remand. Plaintiff appealed. The Court of Appeal held that the lower court's order limiting the scope of review to a review of the record of the previous hearing was the only valid order and opined that a later order expanding the Board's scope to include a new hearing invalid. (Barrett)



### III. LEGISLATIVE SECTION



### III. LEGISLATIVE SECTION

During fiscal year 1981-82, this office performed legal work in connection with the preparation, analysis, review or approval of 568 ordinances, 985 resolutions, and approximately 600 motions and related documents that were either enacted or adopted by the Board of Supervisors during the year, plus many more that were considered but not passed. The office performed similar work in connection with more than 110 proposed Charter amendments and ballot arguments which were before the electorate on the November 3, 1982, ballot. More than 90 California Senate and Assembly legislative measures were reviewed and a written analysis of each (including its effect on San Francisco) was submitted to the City's State Representative in Sacramento.

There were 66 formal written opinions rendered and numerous letters of advice sent to the Board of Supervisors during this same period. In addition, many hours were spent in consultation with members of the Board of Supervisors, the Clerk of the Board, and individual Committee Clerks. At least one deputy from this office was present at each meeting of the Board and also provided legal advice and assistance with respect to the many questions that arise during the course of its Committee meetings.

Illustrative of the diverse types of legislation that were prepared and approved by this office during the past fiscal year are the following:

#### Legal Opinions

Determining the extent of remedy that may be granted by the Civil Service Commission after a finding of employment discrimination

Determining that an environmental impact report was required for a proposed cloud seeding program sponsored by Hetch Hetchy Water and Power in the Sierra Nevada

Determining that the Board of Supervisors does not have the power to create any positions without first being requested to do so by a department and under the procedures provided for in the Charter, or to create a Citizens Advisory Council to the Police Commission

Clarifying initiative petitions proposing Charter amendments





Determining that the City cannot delegate control over the use of public streets to private parties

Clarifying several issues relating to the roles of the Board of Supervisors vis-a-vis City Departments, and of various City Departments when their theatres of operation overlap with others

Clarifying various land use matters heard by the City Planning Department under the terms of the Charter

Determining that certain sewer revenue bond funds approved by the electorate can be expended by the City when federal or state shares are unavailable or reduced

Clarifying various fees to be charged to the public by the City

Clarifying various procedures regarding members of the Board of Supervisors

Interpreting various contracts to which the City is a party

Determining that the City can enact an ordinance regulating the possession of handguns

Interpreting the effect of state legislation regulating the use of campaign funds on local government office holders

Clarifying Civil Service Commission obligations regarding setting salaries and other labor matters

Interpreting bilingual election requirements and other matters relating to voting

Determining that the San Francisco United School District may not terminate the Social Security coverage of any of its teachers under present law

Analyzing ways funds remaining in Community Development budgets may be reallocated

Determining that the Board of Supervisors does not have the authority to make carpooling on downtown streets mandatory during commute hours

Determining that the Redevelopment Agency is not bound by the City's Anti-Discrimination Ordinance



## Ordinances

Enacting a comprehensive new Park Code

Exempting nonprofit residences for senior citizens from the City's Utility Users' Tax

Extending the provisions of the Residential Rent Stabilization Ordinance to cover unsubsidized and unassisted units that are insured by the United States Department of Housing and Urban Development

Establishing commercial rent control

Revising and consolidating the fee structure for permits issued and regulated by the Police Department

Prohibiting the possession of handguns within the City

Legalizing secondary dwelling units in existing single-family residential structures

Regulating the location of adult entertainment businesses

Regulating the posting of signs on public and private property

Reducing parking fines

Regulating the location and use of video games

Prohibiting the keeping of pit-bull terriers

Determining requirements regarding union agency shop

## Charter Amendments

Establishing of an Office Of Citizen Complaints within the Police Department

Increasing the salaries of the members of the Board of Supervisors

Permitting the promotion of part-time Civil Service employees without requiring a Civil Service examination



#### IV. PUBLIC UTILITIES SECTION



## IV. PUBLIC UTILITIES SECTION

This section is responsible for all counseling, legal draftsmanship, and litigation involving City's Public Utilities Commission, its several bureaus, the Water Department, the Hetch Hetchy Project, and the Municipal Railway. An exception is that personal injury and property damage claims and suits arising out of the operation of the Municipal Railway are the responsibility of the Municipal Railway Trial Section, whose activities are covered elsewhere in this report.

Legal service involving the Commission itself and its general office is virtually all derived from its departments and bureaus and is discussed, infra. For its general office however, contracts were reviewed and approved.

### HETCH HETCHY POWER AND WATER SUPPLY

A challenge to the legality of electric rates charged to airline tenants at the San Francisco International Airport required extensive pretrial discovery which lead to a tentative settlement on the system of setting electric power rates for airline customers.

Petitions for equalization were filed with the State Board of Equalization regarding the property taxes levied by Tuolumne County. It is projected that Tuolumne County will make some concessions which would result in tax refunds to the City and County of San Francisco.

The United States has filed litigation against the City and County of San Francisco in order to obtain a return of certain lands in the Stanislaus National Forest. Negotiations have taken place and it is anticipated that this litigation will be settled in the near future.

Extensive negotiations over contract language have been undertaken with PG&E in order for the City to buy used D.C. power equipment. The writing of opinions and pleadings was undertaken in an effort to secure approval from state and federal agencies for a number of proposed projects, including a small power production facility at Calaveras, the Harden Flat and South Fork Projects, the lowhead generating facility at Moccasin, the pumping station at Lake Lloyd (Cherry) and the protection of the City's water rights in the Sierras.

Representation is provided to the department in personal injury and property damage litigation.





Construction and consulting contracts were reviewed, revised, and approved and in some cases completely drafted. Claims arising out of construction contracts were researched and the department is advised. Contracts were drafted on behalf of the Bureau of Light, Heat and Power holding the City harmless from injuries associated with the use of its street lights for various purposes.

Two hundred contracts, leases, grant applications, ordinances, resolutions and amendments to such documents were approved as to form following in many instances complete drafting of such documents by this office.

#### SAN FRANCISCO WATER DEPARTMENT

Extensive trial preparation was undertaken in the litigation between the peninsula resale customers and the City over alleged unreasonably high water charges by the City. Consultants assisted the City in making exhaustive analyses of various approaches to a system of establishing water rates that would be fair to both San Francisco and the resale customers. To this end, the consultants prepared a number of analyses of various approaches to the settlement of this litigation in conjunction with this office and retained outside counsel.

San Francisco's water rights on the Tuolumne River and its tributaries were challenged before the State Water Resources Control Board by the Sierra Club, particularly with reference to diversions for power generation from O'Shaughnessy Dam to the Kirkwood Power House. The City is cooperating with the State Water Resources Control Board in supplying documentary support for its water rights position.

A principal function of this office is to draft permits and leases either negotiated or put out to bid by the Water Department. This office drafted eight agricultural leases, four right-of-way leases, three recreation leases, three commercial leases, and three land use permits.

Representation is provided in defense of litigation arising from claims of property damage and/or personal injury caused by flooding due to broken water mains, subsidence, excavations and vehicular accidents. Further, this office provides representation on claims arising from construction contracts. The rights-of-way require constant attention to protect the aqueducts underground by the removal of trees and other growth with potential of causing damage to the pipelines.



A number of requests for collection for unpaid bills were received from San Francisco Water Department and where appropriate, lawsuits were filed. Advice and opinions were written on behalf of the Water Department concerning various personnel problems.

Other legal services were provided on a routine basis responding to miscellaneous requests from the staff of the Water Department.

### MUNICIPAL RAILWAY

A crisis arose in the fall of 1981 when Municipal Railway repair forces could not keep up with the demands of maintenance and upkeep for its aging fleet of motor coaches. This office assisted Municipal Railway representatives in drafting, on an emergency basis, a lease for coaches from the Los Angeles Rapid Transit District, and a number of contracts for emergency repair and reconstruction of the motors and transmissions. This office further participated in the preparation of a bid contract for the rebuilding of a number of motor coaches.

Conversion of a motor coach line to a trolley coach line required a great deal of time and preparation of a bid contract emphasizing time factors in the early completion of the conversion. Many aspects of the cable car rehabilitation program were reviewed in this office including encroachment problems at the Washington-Mason property, subsidewalk basement problems along Powell Street, relocation of a turntable within the boundaries of the Golden Gate National Recreation area, preparation and approval of various documents required in the grant process, preparation of appropriate contracts with the San Francisco Municipal Railway Improvement Corporation and a private organization relative to funding. Problems were also resolved relative to "Buy American" and "Ship American" occasioned by the fact that all of the bidders on cable replacement rail were foreign and relative to the construction contracts themselves.

The potential for maximizing the funding for Muni by taking advantage of the provisions of Economic Recovery Tax Act of 1981 for the formation of a private corporation and sale tax credits were analyzed. For the Board of Supervisors, the Utility Section prepared a number of separate drafts of transportation commission charter amendment for the November, 1981 election and for the June, 1982 election. The Board did not approve placing such amendments on the ballot in either case.

This office continues to defend the City in a class action suit challenging the validity of the transit impact development fee. The transit impact development fee requires the developers of





new office buildings to pay a fee reflecting the added cost of carrying additional office workers in the Municipal Railway system. Extensive discovery is in progress.

An injunction was sought to prevent the implementation of changes set forth in the Municipal Railway five-year plan. This office defended that action and prevailed in Court. A number of requests for collection of unpaid Municipal Railway fast pass vendors were received by this office and where appropriate, lawsuits were filed. The largest of these cases is in the amount of \$25,000 and the smallest is in the amount of \$2,400. Further, the City filed an action for embezzlement of City funds by means of false and forged credit card slips. This matter is pending trial.

This office represents the Municipal Railway in all employee disputes regarding the interpretation of Civil Service rules as well as the Municipal Railway rules. This section defends the City in actions filed in Superior Court challenging the determination of hearing officers and dismissal hearings.

Further, advice is received by the Municipal Railway in actions arising out of claims of racial, handicap and sex discrimination as well as compliance with affirmative action programs. A new form of a transit advertising contract was drafted and will be put out to bid during the fiscal year 1982-83. Research was performed and letters of advice prepared on non-civil service and emergency employments, purchasing procedures and emergency contracting procedures as well as the reorganization of the middle management structure.

Representation was provided in contract negotiations regarding the exchange of real property for the Municipal Railway facilities.

Representation was provided in addition on a wide variety of miscellaneous activities to Municipal Railway representatives.





## V. RETIREMENT BOARD



## V. RETIREMENT

### RETIREMENT BOARD HEARINGS AND OTHER LEGAL MATTERS

The San Francisco City and County Employees' Retirement System is administered and managed by the Retirement Board. A Deputy City Attorney is specifically assigned by the City Attorney to act as counsel for the Retirement Board and the Retirement System. This deputy devotes full time to the varied legal problems involved in the daily operations of the Retirement System and to advising the Board on legal matters.

During the year, independent hearing officers heard approximately 159 cases in which applicants sought disability or death benefits because of industrial injuries. The deputy assigned to the Retirement Board prepared for and participated in each of these cases by cross-examining applicants and witnesses and producing and examining witnesses so that there would be a full presentation of all pertinent facts to the hearing officer.

The deputy assigned to the Retirement Board also supervises other attorneys in this office who are designated to represent the City and County and the Retirement Board in matters before the State Workers' Compensation Appeals Board and the courts of this state. During the year, 2 attorneys were engaged full time in handling workers' compensation cases.

### COURT LITIGATION

This office represents the Retirement System and Retirement Board, both in the courts and before the Workers' Compensation Appeals Board. Most of the litigation involving the Retirement System concerns the determination by the Court as to who is entitled to benefits under the Retirement System, the extent of such benefits, or whether benefits have been improperly denied an employee or his beneficiary.

During the year, only 8 Administrative Writs of Mandate were petitioned for against the Retirement Board. In 7 of these cases, the petition was denied. The other one was decided in favor of the employee and is back at the administrative level. 1 lawsuit for a writ of prohibition was filed. This case was dismissed. During the year, 3 cases on appeal were decided in favor of the Retirement Board.



As we have been reporting in recent years, this office is being called upon more and more frequently to represent the Retirement System in domestic relations litigation involving employees of the City and County who are members of the Retirement System. Until recently, it was usually not necessary to prepare pleadings or appear in court in such cases. However, as a result of recent appellate court decisions authorizing joinder of pension plans in domestic relations cases, it is now the usual practice to join the Retirement System as a party to the proceedings. As a result, an increasing amount of time is spent not only conferring with attorneys representing parties and assisting them with the legal problems relating to the interests of the parties in the benefits provided under the Retirement System but also more and more time is necessarily devoted to the preparation of pleadings, responding to interrogatories and appearances at pre-trial conferences.

The City Attorney also represents the City and Retirement System in respect to the City's right of subrogation against third parties who negligently cause injury to City employees whereby reimbursement is obtained for the amount of compensation paid and medical costs incurred by the City for the benefit of such employees as a result of their injuries. Where a City employee is injured in the course of his employment by a third party, the City has the right to intervene in that action in order to recover the amount of benefits paid to or on behalf of the City employee. During the past year, actual cash recoveries from July 1, 1981, to June 30, 1982, increased from \$215,766.98 to \$257,835.31.

STATE WORKERS' COMPENSATION APPEALS BOARD  
PROCEEDINGS AND SUITS IN INTERVENTION

Pursuant to Section 8.515 of the Charter, the Retirement Board administers the benefit provisions of the Workers' Compensation laws of the State of California for industrial injuries and deaths sustained by employees of the City and County, the Unified School District and the Community College District. This office appears on behalf of the Retirement System in hearings before the Workers' Compensation Appeals Board of the State of California in connection with all contested claims for workers' compensation benefits involving the City and County, the Unified School District and the Community College District. Hearing are held by the Appeals Board in those cases in which the Retirement System denies liability for the alleged industrial injury or death, denies that an injury occurred, contests whether disability resulted from the injury or questions the extent of the claimed disability.





There were approximately 5,472 industrial injuries among City employees during the past year; 692 applications for workers' compensation benefits were filed or pending before the Appeals Board. As a result, this office prepared for and participated in 828 hearings before the Appeals Board. The hearings involved applications for benefits filed by employees of the following departments and agencies: Airport, City Attorney, City Planning, Community College District, Controller, Electricity, Fire, Hetch Hetchy, Juvenile Court, Mayor's Office, Municipal Court, Municipal Railway, Police, Public Health, Public Library, Public Works, Purchaser, Recreation and Park, Registrar of Voters, Sheriff, Social Services, School District, Tax Collector and Water.





VI. RATE SECTION



## VI. RATE SECTION

Virtually every citizen in San Francisco uses utility services - telephone, gas and electricity. For this reason, the City Attorney's Office has historically appeared before the California Public Utilities Commission in an effort to ensure that both citizens of San Francisco and city government are provided quality utility service at fair rates. Our presentations historically have been very successful in reducing excessive rate requests by Pacific Telephone and PG&E and the recent fiscal year was no exception. Our office participated in major rate cases with great success.

### TELEPHONE REFUNDS

We were active in telephone cases during the recent fiscal year. At the close of the fiscal year in response to a petition filed with the California Supreme Court by the City, the California Public Utilities Commission ordered rate reductions and refunds of approximately \$13 million per year. We proved that in setting rates, the Commission had taken into account lost revenues but failed to take into account reduced expenditures commensurate with the revenue loss. Refunds and reductions will appear in bills by about the third quarter of 1982.

In submitted cases, we are seeking further refunds and rate reductions. Based on our Supreme Court case, we challenged the Commission's failure to take into account reduced expenditures for telephone connections. If successful, rates will be reduced by a further \$40 million per year. In a second action, we have asked the Commission to reduce rates to reflect Pacific Telephone's massive tax reductions under the 1981 tax act. This could provide \$20 million in refunds and reductions in 1982 and over \$45 million in 1983.

Significant rate impacts could arise from the proposed divestiture of Pacific Telephone from the Bell System. It is also expected further major rate increases will be sought by Pacific Telephone in late 1982. We will continue to monitor these matters closely to ensure that rates are not excessive.

### ENERGY UTILITIES

Our office has been very active in numerous areas regarding PG&E. We recently presented testimony and submitted a brief seeking higher lifeline allowances in San Francisco and seeking a resumption



of zone rates that recognize that the high customer density in San Francisco produce cost savings that should be reflected in lower rates. This matter should be decided before the end of 1982.

PG&E has recently refused to continue its undergrounding program in San Francisco. We are before the California Public Utilities Commission seeking to compel PG&E to continue its undergrounding projects. Our office negotiated a settlement of a PG&E increase in rates for supplementary power to the Hetch Hetchy system. We are working with the Bureau of Light, Heat and Power to purchase street lights from PG&E. Various PG&E cases are pending before the California Commission.

#### OTHER DEPARTMENTS

In addition to the rate work before the California Public Utilities Commission, this section provides expertise in economics and rate making to various city agencies. During the recent fiscal year, we were involved in the areas of cable television, garbage rates, and federal court litigation involving water rates charged on the Peninsula. These activities are continuing and involve complex litigation.





VII. PORT SECTION



## VII. PORT DIVISION

### I

#### INTRODUCTION

The San Francisco Port Commission was created by Section 3.580 of the San Francisco Charter. Pursuant to San Francisco Charter Section 3.581, the Port Commission is empowered to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco. The area under the Port Commission's jurisdiction consists of over 2,000 acres of real estate spread over more than 5 1/2 miles of shoreline along the San Francisco waterfront.

### II

#### SERVICES RENDERED

##### A. Leases, Licenses and Agreements.

The Port of San Francisco currently has in effect over 800 leases and licenses relative to the use of its properties. In addition, the San Francisco Port Commission is a party to over 100 contracts and agreements for services, repairs, maintenance, construction and other matters related to the operation of the Port of San Francisco, 44 of which were entered into during Fiscal Year 1981-82. In many instances these agreements and contracts are drafted by the Port Division of the City Attorney's Office; in some instances the Port Division negotiates terms and provisions with tenants and contractors; in all instances the Port Division reviews and approves as to form these agreements and contracts. Contract and lease work involves continual document preparation, review and revision as well as legal interpretation and law enforcement. The Port Division of the City Attorney's Office has prepared a master lease form for the San Francisco Port Commission which is revised from time to time as developments in commercial leasing law and practice dictate. Preparation of leases and major contracts by the Port Division is accomplished with the assistance of the word processing center of the City Attorney's City Hall office.

Examples of work performed in this category during Fiscal Year 1981-82 include preparation of a ground lease for the construction of an office and retail sales complex on Seawall Lot 318, including renovation of the Roundhouse, an historical building, preparation of an operating agreement for the container terminal at Piers 94-96; drafting of amendments to and assignments of restaurant and retail business leases; and drafting of various professional and technical services contracts for the Port. A total of approximately 60 such leases, amendments, assignments, licenses, contracts and agreements were either drafted, negotiated, approved as to form, or enforced over the past year.



## B. Advice and Opinions.

Another significant function of the Port Division of the City Attorney's Office is the rendering of legal advice to the San Francisco Port Commission and its managerial staff. This involves research of federal and state laws, the charter and ordinances of the City and County of San Francisco, relevant case law, and, where necessary, federal, state and local regulations. A member of the Port Division attends all Port staff meetings and all San Francisco Port Commission meetings. In addition to insuring that the San Francisco Port Commission complies with the laws and regulations governing conduct of public meetings, the attending deputy city attorney, when appropriate and possible, provides on-the-spot legal advice and guidance to the Commission. Examples of tasks within this category include advice to the accounting department concerning delinquent accounts, procedures and legal requirements for bid requests, and proposed and newly enacted statutes, charter amendments and ordinances relating to the San Francisco Port Commission.

Informal advice and opinions are requested of the Port Division of the City Attorney's Office on an average of 15 to 20 times per week. Written advice by way of formal opinion letter or memorandum is rendered by the Port Division on an average of 2 to 5 times per week.

## C. Litigation.

Port litigation, which includes both plaintiff and defense work, involves the direction of investigative activities, discovery, pre-trial matters, trial, extraordinary proceedings and appellate litigation. The Port Division handles legal disputes involving a number of areas of substantive law, including bankruptcy, admiralty, personal injury, wrongful death, real property, landlord-tenant, public nuisance, contract, and employment law. Personal injury defense litigation is handled by Deputy City Attorneys outside the Port Division. At the end of Fiscal Year 1981-82 there were approximately 93 pending cases involving the San Francisco Port Commission all of which were handled by the Port Division.

Although the Port is covered, in its own right, or as the landlord of the leased premises, by public liability and property damage insurance, it is often necessary for Port Division attorneys to become involved in litigation because the insurance coverage does not apply due to a self-insured retention or because tender offers to the Port's insurance carriers or to the Port's tenants and their insurers are not accepted.





#### D. Claims.

All claims against the City arising out of the operation of the Port or occurring on property located within the jurisdiction of the Port are handled by the Port Division. Work in this area involves the review, assessment, investigation, settlement and administration of all claims filed against the San Francisco Port Commission. Claims filed against the Port Commission generally cover the same diverse areas of substantive law which are involved in the litigation presently pending against the Port Commission. In addition to requiring a working knowledge of the various areas of substantive law in order to assess these claims, Port Division attorneys must comply with and enforce the claims procedures set forth in the California Tort Claims Act and in the San Francisco Charter. 26 claims were pending against the Port of San Francisco at the end of the Fiscal Year 1981-82.

#### E. Construction Contracts

Further construction, particularly construction of container facilities in the southern waterfront of the Port of San Francisco continues to be anticipated in the near future. Various engineering consulting contracts involved in these undertakings have required significant preparation and proper administration in order to protect the Port's interests and avoid litigation. There is already significant construction activity involving Port properties. Two major projects completed during Fiscal Year 1981-82 include the waterfront promenade directly south of the Ferry Building-Agriculture Building complex and major remodeling of the passenger terminal at Pier 35.

#### F. Unlawful Detainers and Collections.

In addition to handling litigation to retake premises in unlawful detainer situations and to collect money on delinquent accounts, the Port Division gives legal advice to, and has developed form notices for, both the Commercial Property Department and the Accounting Department of the Port of San Francisco in order to prevent the necessity of litigation where possible and to collect debts expeditiously.

#### G. Civil Service and Personnel Matters.

Port personnel matters regarding potential or actual hiring, dismissal or suspension of Port employees are referred to the Port Division. Port Division attorneys insure that the Port management receives proper legal assistance and that the Port personnel are afforded the due process safeguards to which they are entitled. The Port Division also advises Port management on questions related to employee benefits. During Fiscal Year 1981-82, at the request of the Port Commission, the Port Division prepared legislation amending





the Burton Act to clarify the right of employees transferred from the State to City service to receive increases in retirement benefits. That legislation was approved by the Board of Supervisors. Carried by Assemblyman McCarthy, the legislation was pending at the end of the fiscal year.

#### H. Governmental Matters.

The San Francisco Port Commission and its maritime tenants are generally subject to the Shipping Act of 1916 and the regulations of the Federal Maritime Commission. Certain aspects of Port operations also fall within the jurisdiction of the Maritime Administration of the U. S. Department of Commerce. Still other matters relating to Port operations fall within the jurisdiction of the Interstate Commerce Commission. The City Attorney must assure compliance with the laws and regulations promulgated under the authority of these and other agencies having jurisdiction over various Port operations. During Fiscal Year 1981-82, the Port Division prepared an operating agreement for the container terminal at Pier 94-96, which agreement is expected to be filed with the Federal Maritime Commission shortly after the beginning of Fiscal Year 1982-83.

Other governmental matters requiring the attention of the Port Division of the City Attorney's Office include the review of all federal, state, regional and local legislation and regulations which may have an affect upon the Port, its operations or its tenants. Examples of duties within this category included ongoing advice to staff and commission members regarding the conflict of interest requirements of the applicable state and city conflict of interest laws and advice regarding the effect of state legislation on Port employee retirement and health benefits. Other tasks involving interagency and intergovernmental relations included working closely with the City Planning Department, the Police Department, the San Francisco Redevelopment Agency and the Bay Conservation and Development Commission.

The Port General Counsel also sits on the Law and Legislation Committee of the California Association of Port Authorities and the American Association of Port Authorities.



VIII. AIRPORT SECTION



## VIII. AIRPORTS DIVISION

### 1. General.

The Airports Commission is established and created by Section 3.690 of the Charter to operate and manage San Francisco International Airport.

Deputies of this Office are specifically designated by the City Attorney to serve as legal advisors to the Airports Commission and its staff. These deputies, currently four in number, are involved in the furnishing of legal services on a daily basis with respect to the varied and complex operations at San Francisco International Airport.

In order to have legal services readily available to Airport staff, the four deputies are located at the Airport within its administrative offices.

The following are specific examples of the services rendered by the Airports Division during fiscal year 1981-82:

### 2. Services Rendered.

#### a. Leases, Permits and Concession Agreements.

The Airports Division continued drafting concession agreements and related documents for new concessions in the North Terminal and new Boarding Area E. In addition, the Airports Division drafted several concession agreements for the Central Terminal Building, which is scheduled to reopen in July, 1983, as the Airport's international terminal. A major project in this regard was the preparation of a "principal" or "master" concessionaire agreement for the operation of many of the concessions in the Central Terminal.

As a general matter, the Airport's Property Management Division administers over 300 leases, permits and concession agreements with airlines, firms and governmental agencies. The Airports Division works closely with the Property Management Division in the review, revision and interpretation of these documents.

#### b. Claims and Litigation.

Of major interest, of course, is the litigation instituted in Federal and State courts by various airlines. This litigation seeks a sum estimated at approximately \$50 million because of alleged illegal diversions of interest to the City's General Fund from the Airports Revenue Fund and various revenue bond funds. This Office has been working closely with the outside counsel retained by the





City to defend this litigation. As you are aware, this Office actively participated in the negotiations leading to the settlement of this litigation and has been involved in the drafting and review of the various documents necessary to effectuate the terms of the settlement.

The construction of the Public Parking Garage has resulted in two suits asserting damages in the sum of \$22 million. The Airports Division is working closely with the outside counsel retained to handle these two very complex matters.

In addition, the Airports Division reviews and assists in the handling of claims for personal injury and property damage arising out of the operations of the Airport and in the handling of the defense of all litigated claims.

c. Construction and Professional Services Contracts.

The Airport's Modernization and Replacement Phase involves the awarding of numerous contracts for construction and remodeling work to be done in the Central and South Terminals. In addition, contracts have been awarded for runway repair and other projects. The Airports Division assisted in the preparation and review of 37 such contracts during the past fiscal year. Once a construction contract is awarded, the Airports Division is called upon almost daily to assist in the administration of the contract.

Because of the varied activities involved in the operation of the Airport, it is frequently necessary to engage specialized professional services to assist the Airport staff in areas in which it does not possess the required expertise. The engaging of such services requires entering into a specific agreement. During the past fiscal year, the Airports Division assisted in the preparation and review of 25 such agreements.

d. Dismissal and Suspension Proceedings.

Airport personnel matters involving potential and actual dismissal and suspension hearings require the close attention of the Airports Division and the giving of legal advice to the Airport's Personnel Bureau to guarantee that personnel involved are afforded due process safeguards and that in each instance all relevant facts and legal issues are fully guaranteed.

e. Revenue Bonds.

The Airports Division functions as associates to bond counsel and acts as liaison with financial consultants with respect to revenue bond problems. During the past fiscal year, the Airport Division was involved in reviewing with bond counsel the bond related issues involved in negotiating settlement of the litigation



instituted by the airlines. Also, the settlement of this litigation contemplates the issuance of revenue bonds to complete various modernization and renovation projects at the Airport. The Airports Division has been working with bond counsel and various financial consultants in preparing the various documents involved in issuing the revenue bonds, the sale of which is planned for this Fall.

f. Environmental Matters.

In connection with the Airport's Modernization and Replacement Phase, the Airports Division has been involved in reviewing and advising the Airport as to the applicability of the California Environmental Quality Act and the National Environmental Protection Act.

Likewise, the Airports Division maintains a close contact with the Airport Sound Abatement Center and noise monitoring system to assure compliance with legal requirements of State and Federal noise regulations. In this regard, it was necessary for the Airport to seek a variance from the State's noise regulations. The Airports Division prepared the necessary application for variance and participated in extended hearings in connection with that application. I am pleased to state that on July 8, 1982, the California Department of Transportation issued its decision granting the requested variance for one year, subject to certain conditions.

As reported in last year's Annual Report, the decision of the California Supreme Court in Greater Westchester Homeowners Ass'n. v. City of Los Angeles imposed liability upon Los Angeles, as owner and operator of Los Angeles International Airport, under a nuisance theory for physical and emotional injuries allegedly caused by noise from aircraft using the Airport. In the wake of this decision, over 500 small claims court actions have been filed against the City and County seeking damages for alleged physical and emotional injuries and property damage claimed to have been caused by noise from aircraft operations at San Francisco International Airport. The first group of these cases has been tried, with all of the cases being decided adversely to the City. These cases have been appealed and are awaiting retrial. Trial dates have not as yet been set for the other cases.

g. Opinions and Advice.

The varied operations of the Airport require that members of the Airports Division attend numerous staff meetings to assist Airport management with the legal aspects of policy and operational decisions. Likewise, a member of the Airports Division attends each meeting of the Airports Commission.



Opinions and advice are rendered to the Airports Commission and its staff on a daily basis to assist them in managing and administering the many different activities involved in the operation of the Airport.



IX. CODE ENFORCEMENT SECTION





## IX. CODE ENFORCEMENT SECTION

Code Enforcement activities include enforcing codes by court action, defending city officials in suits brought to prevent code enforcement, advising city departments involved in code enforcement and drafting legislation involving code enforcement.

### ABATEMENT CASES

There are approximately 104,000 structures for single family occupancy, 41,000 structures for 2-family occupancy and 178,000 dwelling units in structures for 3 or more family occupancies in the City and County of San Francisco and a large number of commercial structures. From time to time, the condition of some of these properties falls below the minimum standards for housing as established by the San Francisco Housing Code or other codes regulating the use or condition of property in the City and County of San Francisco. When these properties have fallen below the standards required, the various regulatory departments of the City commence administrative action to secure compliance with the minimum standards required by the codes. In a number of cases, code compliance cannot be secured through the administrative procedure and those cases are referred to the City Attorney's office for court action to abate the substandard or illegal condition of the property. These cases are known as abatement cases and are the primary activity of the Code Enforcement section of the City Attorney's office.

There are also a considerable number of abatement cases filed each year to enforce the provisions of the City Planning Code. These cases normally involve illegal dwelling units which violate the density provisions in the applicable zoning districts. Other cases may be filed to rid a residential neighborhood of non-conforming or illegal commercial uses.

### NEW ABATEMENT CASES RECEIVED DURING YEAR

During the year 346 new abatement cases were sent to this office from various City departments for legal action.



NEW CASES 1981-1982

DEPARTMENT OF CITY PLANNING	12
RAP PROGRAM	56
DEPARTMENT OF PUBLIC WORKS	255
FIRE	22
HEALTH	1
<u>TOTAL</u>	<u>346</u>

The Rehabilitation Assistance Program (RAP) is a mandatory code enforcement program whereby certain designated areas of the City are targeted for rehabilitation. Every building in the area is inspected and systematically brought into compliance. Low-interest loans funded by tax-exempt bonds are available to assist owners in repairing their buildings.

ENFORCEMENT ACTIVITIES

Superior Court Actions were filed during the year against 284 properties.

SUITS FILED 1981-1982

DEPARTMENT OF CITY PLANNING	13
DEPARTMENT OF PUBLIC WORKS	196
RAP PROGRAM	53
FIRE DEPARTMENT	21
HEALTH	1
<u>TOTAL</u>	<u>284</u>



During the year, there were 33 trials resulting in 9 injunctions and 22 stipulated injunctions. 63 default hearings were set on abatement cases resulting in injunctions in favor of the City ordering the owners to correct code violations. To enforce outstanding injunctions, owners are brought before the court on orders to show cause re contempt. During this year, this office handled 646 scheduled contempt appearances.

Enforcement by contempt requires a large amount of clerical and administrative time and 8 to 10 court appearances on the average for each case. It is, however, very effective, as rehabilitation or demolition is under way on the pending contempt cases. In the great majority of these cases the first or second court appearance is sufficient to motivate the owner to commence the repair or demolition of the building. In a few cases during the year, unfortunately, it has been necessary to prosecute the owners for contempt and seek fines and imprisonment in an effort to obtain compliance.

Owners of two (2) properties were put on trial for contempt. Both owners prosecuted were convicted and fined and ordered committed to the county jail until compliance with the court order. One defendant spent several days in jail until he finally complied by vacating and barricading his building. The other defendant's sentence was stayed, however, until he complied by demolishing his building.

In some cases the only resolution of the problem is for the City to demolish the structure. The cost of demolition is added to the taxes as a special assessment pursuant to the provisions of the San Francisco Municipal Code and Government Code.

#### CASES TERMINATED

During the year 300 cases were terminated. Cases were terminated primarily because owners corrected the illegal conditions or demolished the structure.





Terminations 1981-1982

	<u>No. of Cases</u>	<u>Demolition</u>	<u>Correction</u>
Department of Public Health	0	0	0
Department of Public Works	226	5	221
FACE Program	8	0	8
RAP Program	34	0	34
City Planning	11	1	10
Fire Department	21	0	21
<u>TOTAL</u>	300	6	294

Terminations By Dwelling Units

	<u>No. of Cases</u>	<u>Dwelling Units</u>	<u>Other Type Structure</u>
Rehabilitation	294	1239	345
Demolition	6	27	265
<u>TOTAL</u>	300	1266	610

81 of the cases that were closed during the year had progressed far enough to entitle the City to costs. Motions for final judgment were made in these cases resulting in judgments in favor of the City in the amount of \$14,555.00. \$13,864.77 has been collected and deposited in the general fund. The average cost to the City per case is \$150.00 to \$200.00 to file and serve summons and complaint, and \$200.00 to \$350.00 if the case goes to trial.

SUMMARY AND END OF THE YEAR INVENTORY

The case inventory list discloses that there are presently pending 508 litigated cases and 322 non-litigated, for a total of 830.



Year-End Summary of Pending Cases

	<u>Litigated</u>	<u>Non-Litigated</u>	<u>Total</u>
Department of Public Health	1	0	1
Department of Public Works	344	88	432
FACE Program	15	2	17
RAP Program	58	81	139
City Planning	68	4	72
Fire Department	17	15	32
Dahi	5	132	137
<u>TOTAL</u>	508	322	830

ADVICE TO CITY DEPARTMENTS  
INVOLVED IN CODE ENFORCEMENT

This office assists the Department of Public Works by providing legal advice as needed.

Attorneys provide legal advice to the Rehabilitation Assistance Program (RAP). This included interpreting contracts, advice as to public finance of bonds, resolving mechanic's lien problems, tax liens, levies, approving the form of RAP loan documents and preparation of legal opinions.

This office advises the Zoning Administrator on interpretations of the City Planning Code with reference to zoning violations, variances and conditional use authorizations from time to time as needed.

On a number of occasions, upon request, Deputy City Attorneys appeared at administrative hearings before the Director of Public Works and the Director of Public Health to give advice during the course of the hearing.



During the course of the year, the staff handled literally thousands of informational calls referred by other departments to the City Attorney involving the status of abatement cases, code problems, condition of property and other related questions from attorneys, property owners, citizens, community groups and the media.

### LEGISLATION

This office assisted the Board of Supervisors, the Department of Public Works, the Fire Department and the Department of City Planning in interpretation and preparation of State and local legislation affecting code enforcement and land use in a wide range of areas.

### CONDOMINIUM CONVERSION

This office has actively participated in amending and interpreting Chapter IX of the Subdivision Code dealing with the regulation of condominium conversions. Amendments were enacted in July, 1979, and since that time, this office has been assisting the Department of City Planning, the City Planning Commission and the Department of Public Works in the application of said amendments to condominium conversion problems. This assistance includes telephone calls, letters and research for City agencies as well as general information provided to attorneys, subdividers and tenants involved in condominium conversions. Cooperation with officials of the California Department of Real Estate is essential.

Additional amendments to the Subdivision Code are now being proposed. This office is again involved in drafting and approving said amendments as well as researching the validity of language and policy which the City Planning Commission seeks to implement.

Law suits have also been filed by subdividers and tenants against the City thus involving this office in litigation concerning the interpretation of the Subdivision Code requirements and the conditions imposed by tentative map approvals.



X. SPECIAL PROJECTS DIVISION





## X. SPECIAL PROJECTS DIVISION

The function of this Division is to provide fulltime legal assistance and monitoring to complex projects which are of particular importance to the City and County. These projects include the Clean Water Program, the financing and construction of a new multipurpose stadium, the Rehabilitation Assistance Program, the Housing Improvement Program, the Parking Authority, Solid Waste Management, Housing Revenue Bonds, Office of Housing and Community Development Grant Block Programs and Economic Development Council. These and other projects require daily legal review and participation from staff members qualified to identify problems that may arise and who are capable of recommending the necessary preventative action.

The Special Projects Division must also prepare opinions, review contract and bidding requirements and procedures, coordinate functions with various state and federal agencies, and participate in court litigation on the projects. This necessarily involves review of bond resolutions, official statements prepared for the sale of bonds and all other matters relating specifically to project funding.

### CLEAN WATER PROGRAM

The Clean Water Program is the largest construction program that the City has embarked upon. Currently, for the Phase II portion, the estimated construction cost is \$1,600,000,000, of which \$600 million has been expended for construction underway and completed. The Special Projects Division is monitoring five (5) construction contracts that are underway. In addition, five (5) contracts where construction is completed still involve legal services for extras claimed by the contractors for work that they claim was not covered by the original contract documents.

The City Attorney's Office represented the Director of Public Works in a bid protest to select an underwater diving firm to monitor the construction work for the Southwest Ocean Outfall. After extensive hearings were conducted, the Special Projects Division recommended to the Director of Public Works that the call for bids be cancelled and a new proposal sent out to interested parties. After the rehearing process was finalized, no bid protest was filed and the contract was awarded.

In addition to the construction program, numerous meetings and hearings have been attended before the Board of Supervisors the Regional Water Quality Control Board, the State Water Resources Control Board and the United States Environmental Protection Agency



concerning the progress of the City's program.

Currently there are thirty-three (33) cases pending directly against the Clean Water Program involving personal injury and property damage caused by operations of the program and claims for inverse condemnation for damage to property as a result of construction activities. In addition to the lawsuits filed, two (2) construction contractors have filed demands for arbitration which they are entitled to do under the general conditions of the Environmental Protection Agency.

A lawsuit had been filed several years ago to invalidate the sewer service charge and prevent further expenditures by the City on the Clean Water Program by the Hotel Employers' Association. A summary judgment award was entered by the District Court and the Ninth Circuit affirmed the judgment of dismissal. An appeal to the Supreme Court was not timely filed and the decision affirming the sewer service charge is final.

The Clean Water Program is funded in part by revenue bonds issued by the City and County of San Francisco, together with grants received from both the state and federal governments. A consistent recurring problem is one of grant eligibility in securing maximum participation on behalf of state and federal governments in the program. During this fiscal year similar determinations were made by the State of California in administering the grants program denying eligibility on certain consultant contracts that the City has with the construction consultants. As a result, this Division has filed appeals with the EPA in Washington, DC which involved the review of the applicable federal regulations and the production of documents to justify these expenses as program related and grant eligible. A final determination of these appeals will not occur until the next fiscal year.

A request for deviation was filed with the State Water Pollution Control Board and the Environmental Protection Agency which resulted in reimbursement to the City for costs previously incurred to pay for the operations of the Construction Manager in the amount \$2 million.

A new Sewer Service Charge Resolution was prepared by this Division for introduction to the Board of Supervisors to pay for the cost of operating and maintaining the system, as well as to provide funds for the repayment of general obligation and revenue bonds previously issued by the City.

This Division is currently negotiating with three (3) sewer districts in the northern part of San Mateo County whose effluent is treated by the City and County of San Francisco to pay the current sewer service charge, as well as to provide inspection of commercial and industrial businesses within the district as required under the





Environmental Protection Agency regulations.

This Division is also called upon to give daily advice on numerous problems relating to construction work underway, approving contract modifications to construction contracts and interpretation of grant and water quality regulations.

#### SOLID WASTE MANAGEMENT PROGRAM

The City and County of San Francisco has designated the Sanitary Fill Company as the disposer of solid waste collected in San Francisco. At the present time the solid waste is trucked to Mountain View where it is being placed in landfill. This site will be available to San Francisco until October of 1983.

During this fiscal year, this Division successfully negotiated a new landfill agreement with the Oakland Scavengers to permit the City and County of San Francisco to dispose of its refuse at the Altamont landfill site in Alameda County. This involved hearings before various regulatory bodies within the County of Alameda, the State Solid Waste Management Board, as well as negotiating a contract with the Oakland Scavengers and Sanitary Fill Company.

A solid waste-to-energy plant is still being considered by the City and County of San Francisco and, during the past fiscal year, numerous meetings have been held with proposed vendors who would construct a plant in the City of Brisbane to convert solid waste-to-energy and dispose of the bypass waste and ash to a landfill site. This project involved meetings with the vendor's representatives, the City of Brisbane, where the plant will be located, and meetings with the California Pollution Control Financing Authority, who will issue the bonds to pay for the construction of the facility, and the representatives of the Sanitary Fill Company. This project will continue into the next fiscal year and it is anticipated that extensive legal work will be required on preparation of contracts, rate reviews and legal research on funding the construction cost of the proposed facility.

#### CANDLESTICK PARK STADIUM

After the successful conclusion of the San Francisco 49ers' season, the Mayor was approached by representatives of the San Francisco Giants and San Francisco 49ers concerning the rehabilitation of Candlestick Park Stadium by placing a dome on the existing facility, as well as exploring the feasibility of and construction of a new stadium to be located in the South of Market Area in San Francisco. The proposal is still in the formative stage





as to whether rehabilitation should occur at Candlestick Park or a new stadium should be constructed. Meetings have been held with the Mayor and interested representatives of the community and it would appear that a decision on constructing a new stadium would be made within the next fiscal year. As such, it would require extensive legal work on the preparation of a draft Environmental Impact Report, preparation of contracts and legal research on funding the construction cost of a proposed new stadium or rehabilitation of the existing stadium.

#### OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

The Special Project Division is counsel for the Mayor's Office of Housing and Community Development ("OHCD"), formally "Office of Community Development". A division attorney advises and assists OHCD as to all matters of legal consequence regarding OHCD's use of state and federal community development monies. Legal assistance to OHCD covers the fields of real property, contract and corporation law, federal grant procedure, finance and business law.

Each year the City enters into a grant agreement with the United States Department of Housing and Urban Development ("HUD") for the development and implementation of a Community Development Program and Housing Assistance Plan pursuant to Title 1 of the Housing and Community Development Act of 1974, as amended. Under this agreement HUD annually provides approximately \$25 million in Community Development Block Grant ("CDBG") monies for eligible community development activities.

Pursuant to HUD administrative regulations and by resolution of the City's Board of Supervisors, the Mayor is empowered to apply, accept and administer the distribution of the CDBG monies through OHCD.

The Special Projects Division assists OHCD in the development and implementation of a variety of community development programs designed to make available or improve housing for low or moderate income persons in the City, or to provide and improve various public services to the City's several neighborhoods.

Each new program developed by OHCD must be designed to (1) comply with all applicable federal, state and local laws and administrative regulations, (2) produce the desired result and (3) permit the City to maintain and enforce the integrity of the Community Development Program as required under federal law. This Division assists OHCD in the development of all new programs. During the past fiscal year this Division was involved in the development of new programs designed to rehabilitate housing for low



to moderate income persons or develop housing within air corridors above public properties.

During the implementation of the varied Community Development programs, OHCD contracts with and monitors the performance of more than thirty nonprofit corporations. During the implementation of the programs, this Division drafts all required legal documents, advises OHCD on all requests from or actions of the nonprofit corporations having legal consequence, and reviews or drafts OHCD correspondence requiring legal expertise. It is also the responsibility of this office to assist in the investigation of any improper acts taken by a corporation, determination and institution of any necessary legal action and, when necessary, the restructuring of a specific community development program. During the fiscal year this Division frequently provided OHCD legal opinions, correspondence and necessary legal documents regarding possible or actual misuse of CDBG monies by a number of corporations.

This Division also acts as "in-house" counsel to OHCD in its participation in the State of California "Rental Housing Construction Program" funded under contract with the California State Department of Community Development. Under this program money is made available by the State to develop a mixed income cooperative housing complex, with separate designated open space public area, on the vacant Wisconsin School site. This Division actively assisted OHCD, the State Department of Community Development, and the private developer in the development of the cooperative housing project.

This Division also acted as counsel to OHCD in the design and development of the City's \$60 million Single Family Mortgage Revenue Bond program which, uniquely, combines public and private monies pursuant to new and complex state and federal housing and tax laws. This Division helped the City secure an exception to certain provisions of the Government Code making easier the development of the Bond Program. This Division continues to work with OHCD and bond counsel to secure other documents, agreements and state legislation necessary for a successful sale and delivery of bonds.

The Special Project Division also has primary responsibility for the enforcement through litigation of the legal obligations required of the corporations under contract to OHCD. One major case involving the Bayview Hunters Point Nonprofit Community Development Corporation, though presently still in litigation, has resulted in the City having the Corporation placed under the control of a receiver and seeing the completion of 14 single family homes to be sold to low or moderate income persons.





## REHABILITATION ASSISTANCE PROGRAM

The Residential Rehabilitation Assistance Program (RAP) has been underway for a number of years in San Francisco in two (2) designated areas: the Inner Richmond and the Upper Ashbury. The City has sold approximately \$14 million of residential Rehabilitation Revenue Bonds, the proceeds of which are being used to fund rehabilitation loans in these areas. The Special Projects Division reviewed the summary of financial information, the bond resolution, and other documents necessary for the sale and delivery of the bonds.

This past year the Special Projects Division acted as counsel for the RAP program regarding the new North of Market RAP program and reviewed the summary of financial information, bond resolution, and other documents necessary for the successful sale and delivery of \$5.4 million North of Market RAP bonds.

This Division also assisted each department in the City concerned with the operation of the RAP program, provided legal opinions interpreting RAP rules, and helped bond counsel prepare documents in conformity with changes in the RAP regulations regarding rent stabilization.

## ECONOMIC DEVELOPMENT COUNCIL

The Special Projects Division serves as counsel to the Mayor's Economic Development Council ("EDC"). The EDC is that office of the City concerned with assisting small and medium sized businesses with the development and financing of business expansion and new ventures. Funding for economic development comes primarily from HUD and the United States Small Business Administration.

The Special Projects Division assists EDC in all legal matters arising in the acquisition of monies from the United States, and the "packaging" of "loan packages" between the City, the United States, private business and any commercial institutions involved.

Within its assistance to EDC, this Division serves as counsel for the San Francisco Industrial Development Authority and assisted the Authority and bond counsel in the preparation of documents related to the issuance of \$4.3 million of tax-exempt industrial development bonds.

The EDC also has primary responsibility for the development of the City's Urban Development Action Grants ("UDAG"). This Division actively assists EDC in the negotiation and documentation of all financing and contractual agreements necessary between the City, HUD, and the private developer.



Specifically, this Division is presently involved in the Ocean Beach UDAG, the Fillmore UDAG, and the North of Market Hotel UDAG. Beyond this Division's involvement with the negotiation and drafting of terms for each UDAG project between the City and the private developer, this Division acts as liaison with the UDAG grant division of HUD during the negotiation and drafting of the final UDAG Grant Agreement between the City and HUD.

#### PARKING AUTHORITY

The Special Project Division is counsel for the Parking Authority of the City and County of San Francisco. A Division attorney attends the monthly meetings of the Parking Authority and reviews all Parking Authority legal documents and answers any legal questions which arise.

This Division is currently working with the Parking Authority in drafting legal documents, resolutions and ordinances necessary for the construction of a new garage in the vicinity of the George R. Moscone Convention Center. Work is proceeding with bond counsel and the underwriter in preparation for the sale of approximately \$15 million in tax-exempt lease revenue bonds for the garage project.

The Special Projects Division is also working with the Parking Authority on the development of housing within the air space above the Mission-Bartlett Garage, the Hoff Street Parking lot, and the planned Moscone Center Garage.

During the fiscal year the Special Projects Division actively assisted the Parking Authority in the final negotiations and documentation of the varied contractual agreements necessary for the Performing Arts Center Garage. Construction of this garage commenced in September, 1981. This Division had been intensely involved in negotiations with private developers and the Redevelopment Agency regarding the possible construction of housing in the air space above the Performing Arts Center Garage. No housing was constructed and one private developer filed a writ opposing the construction of the garage without housing and asking for an injunction preventing construction of the garage. The litigation filed against the Parking Authority remains, but the injunction has been lifted and construction continues.

This Division also worked with the Parking Authority to resolve issues concerning excess funds held by both Portsmouth Plaza Garage and Sutter-Stockton Parking Garage. This Division was actively engaged in negotiating with Portsmouth and Uptown garages securing binding agreements returning surplus funds by those two garages to the City and County of San Francisco.





XI. DEPARTMENT OF SOCIAL SERVICES



## XI. DEPARTMENT OF SOCIAL SERVICES DIVISION

A comprehensive range of services are provided to the people of San Francisco through the Department of Social Services. These programs and the administration of Department as a whole are subject to federal and state statutes and regulations, the Charter and codes of the City and County of San Francisco, and decisions of the courts.

The Department of Social Services, with the responsibility for almost 1,400 employees and a budget of \$154,000,000 is in the position of requiring continuous and comprehensive legal services. These services, as detailed below, are provided by the City Attorney's Office, through the Deputy City Attorneys and paralegal staff assigned full-time to the Department of Social Services Division, in coordination with the general legal services provided by the main office of the City Attorney.

### LEGAL ADVICE AND OPINIONS

Problems, both large and small, are encountered on a daily basis by the Social Services Commission, the administration, and the staff of DSS. With the provision of services to the citizens of San Francisco, the Department comes up against problems of confidentiality, enforcement of the laws and regulations affecting these programs, and compliance with the dictates of federal and state funding sources.

In order to provide the legal advice to contend with these problems, the division staff are required to maintain an ongoing awareness of the most current statutes and regulations governing social service programs, and the case law that affects them.

This office provides legal advice and counsel to the Social Services Commission, which has the responsibility for the administration of the Department. The Head Attorney of the Department of Social Services Division attends each meeting of the Social Services Commission and provides it with legal advice to assist the commissioners' direction of the Department policy on an immediate, as well as long range basis.

The programs and services provided by the Department of Social Services interact with many other City agencies, i.e. Director of Purchasing, Controller, and Mayor's Office, and the Board of Supervisors. The Social Services Division consults with and provides legal advice to these agencies, in conjunction with the main office of the City Attorney, to help coordinate the interconnected functions of these City departments.



The City Attorney's Office also provides training sessions and memoranda to inform the staff and administration of the legal responsibilities of these procedures. Also, pending legislation and proposed regulations pertaining to social services are reviewed and summarized by this division to keep the Department of Social Services advised of their obligations.

Also, litigation pending in other jurisdictions that is of interest to this Department is followed and communication with other county counsel, District Attorneys' Offices, the state and federal Attorneys General Offices, and private attorneys is maintained to insure that the Department is kept up-to-date in all legal areas of social services.

### CONTRACTS

It is necessary for the Department of Social Services, to contract with outside providers in order to provide the extensive number of service programs mandated by federal and state law, to the citizens of San Francisco.

The legal advice and consultation involved in these contracts includes contact with the other City agencies involved in the municipal contracting process. This division therefore worked closely with the staff of the Purchaser regarding, for example, Invitations for Bids and required Bid information for the Food Stamp and Homemaker Chore Services contracts.

### CHILD WELFARE SERVICES

The Department is in the position of having primary responsibility for children in both in-home supervision, and out-of-home placement situations. The Department is responsible for providing protective services to children, family reunification programs, actions to free children for adoption, adoption services and other long-range planning to improve the quality of the lives of children dependents of the Juvenile Court and non-dependents.

This office provides legal advice to the Department throughout all Juvenile Court dependency actions, and legal representation in all contested actions. Legal advice and services are given to the Department during detention proceedings to determine if a child requires immediate protective custody, and during jurisdictional hearings to determine whether a child should be made a dependent of the Juvenile Court.





Dispositional hearings to decide whether a child should have in-home supervision or out-of-home placement, and annual status review hearings also require legal advice from this division, as well as representation in any contested matters.

A petition to modify or terminate a dependency order may be brought by DSS, the parent, or any interested person who feels that the modification would be in the best interest of the child. The deputies in this division provide advice on the petition, and representation if petition is contested.

In all actions to terminate parental rights and to free children for adoption brought under the Freedom from Parental Custody and Control Act (CC 232, et seq.), and the Uniform Parentage Act (CC 7000, et seq.), this office provides the Department with legal advice and representation in Superior Court trials of these complex and highly contested actions. Over 60 children were freed for adoption last year.

With the responsibility for these dependent children comes the necessity for the Department to provide service and assistance for their care. DSS licensing of day care, foster care, and mental hygiene facilities, and its provision of financial assistance through programs including AFDC, AFDC-BHI, Aid for Adoption, Medi-Cal and others, produces legal questions, and sometimes results in litigation, which requires advice and representation from the City Attorney's Office to help facilitate the provision of quality services for these children.

### ADULT SOCIAL SERVICES

Title XX of the Social Security Act requires that the Department provide social services for aged, blind and disabled applicants, and recipients of federal and state financial assistance. These services include Protective Services for Adults, In-Home Supportive Services, Out-of-Home Services, Health Related Services, and Special Services for Developmentally Disabled. The Department also provides licensing services for both residential care homes for the elderly and community care facilities for the developmentally and mentally disabled.

The Adult Services Division of DSS is responsible for the administration of these programs, including compliance with governmental regulations, and overseeing of services provided by outside providers, and this office provides advice as to the legal status of the Department's activities.

State statutes also make the Department responsible for pursuing conservatorship or guardianship for individuals who are



incapable of handling their own affairs or taking care of their own persons, and the City Attorney's Office is required to provide representation in these actions on behalf of the recipient when the recipient cannot secure the services of a private attorney.

### ADMINISTRATIVE PROCEEDINGS

This division also assists the Department with legal advice and representation in administrative proceedings concerning fiscal disputes with the State and Federal governments. This division has assisted the Department in resisting the imposition of a \$396,802 federal claim based on a food stamp audit exception and a \$721,203 state sanction based on San Francisco's AFDC error rate.

### FRAUD CLAIMS

Each year the Department of Social Services processes thousands of claims against recipients. These claims are based on fraudulent representation of eligibility requirements, liens against after acquired property of General Assistance recipients, receipt of duplicate aid, etc.

Through frequent communication between this division and the Collections, Overpayment, and Special Investigations Units of DSS, the method of referring cases of fraudulent overpayment to this office for possible civil action has continued to improve and we are now receiving an average of 10-11 referrals a month in this area.

In response to these referrals, this division provides the legal advice and representation necessary to protect the City's interest in these claims. These services include determination of the legal sufficiency of each claim, the filing of and legal representation in civil actions brought against recipients who have committed fraud, negotiation of settlements of uncontested claims, and the giving of advice and assistance to the Department on the procedures for executing on judgments obtained through civil actions. The City Attorney's Office provides representation of DSS in U.S. Bankruptcy Court by bringing actions to have these claims declared nondischargeable when recipients file for bankruptcy.

In 1981, our office filed 152 complaints with total prayers of \$1,578,520.60 in Superior, Municipal, and Bankruptcy courts to protect the Department's interest in recovering welfare fraud claims. During that time, we have obtained 40 judgments and settlements amounting to \$325,223.79. These figures represent over



a 50% increase in both the number of cases filed and a 300% increase in the total dollar amount of judgments in favor of the City from the previous year.



XII. FIVE YEAR STATISTICAL SUMMARY





# APPENDIX A

## CLAIMS FILED

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
ADULT PROBATION	1	2	0	1	1
AGRICULTURAL COM.	0	0	1	2	0
AIRPORT	92	106	191	447	654
ARCHITECT	2	0	0	0	0
ART COMMISSION	8	5	0	8	3
ASSESSOR'S OFFICE	1	0	0	1	1
BOARD OF SUPERVISORS	4	10	3	5	3
CAO	0	4	0	0	2
CITY ATTORNEY	2	5	8	2	8
CITY PLANNING	2	3	2	3	2
CIVIL SERVICE COMMISSION	6	4	2	3	2
CLEAN WATER	0	10	20	3	11
COMMISSION ON THE AGING	0	0	0	1	0
COMMUNITY COLLEGE	6	4	1	3	1
COMMUNITY MENTAL HEALTH	0	0	0	0	0
CONTROLLER	8	4	0	3	4
CORONER	5	1	3	0	2
COUNTY CLERK	4	1	1	0	1
DISTRICT ATTORNEY	21	12	20	17	17
ELECTRICITY	29	19	16	15	8
FARMERS MARKET	0	1	0	0	0
FINE ARTS MUSEUM	0	12	8	2	6
FIRE DEPARTMENT	63	111	84	89	75
HEALTH SERVICE	0	2	0	0	2
HETCH HETCHY	8	6	3	26	7
HOUSING AUTHORITY	15	13	5	13	7
JUVENILE COURT	9	1	10	2	7
JUVENILE PROBATION	0	0	0	0	0
LEGION OF HONOR	1	0	0	0	0
LIBRARY	0	6	4	3	1
LIGHT, HEAT & POWER	2	1	2	2	1
MAYOR'S OFFICE	1	8	5	11	7
MODEL CITIES	1	0	0	0	0
MOSCONE CONVENTION CENTER	0	0	0	3	14
MUNICIPAL COURT	5	18	7	9	28
MUNICIPAL RAILWAY	2582	2511	2672	2546	2820
OFFICE OF COMMUNITY DEVEL	0	0	0	0	0
PARKING AUTHORITY	4	10	5	11	16
POLICE DEPARTMENT	722	840	815	838	1146
PORT COMMISSION	36	25	24	30	22
PUBLIC ADMINISTRATOR	0	1	1	0	0
PUBLIC DEFENDER	1	3	9	1	3
PUBLIC HEALTH	175	123	150	138	218



APPENDIX A  
(Continued)

CLAIMS FILED

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
PUBLIC UTILITY COMMISSION	1	4	0	2	3
PUBLIC WORKS	518	464	505	477	532
PURCHASING	1	2	2	9	4
REAL ESTATE	2	2	5	3	1
RECORDER'S OFFICE	0	0	0	4	5
RECREATION & PARK DEPT	127	126	137	138	124
REDEVELOPMENT AGENCY	4	9	1	3	1
REGISTRAR OF VOTERS	3	5	10	5	4
RENT BOARD	0	0	0	0	1
RETIREMENT	0	4	1	2	2
SHERIFF'S DEPT	110	82	61	103	106
SOCIAL SERVICES	5	25	38	19	13
SPCA	3	0	0	0	0
SUPERIOR COURT	4	4	0	3	2
TAX COLLECTOR	3	8	3	2	1
TREASURER	2	4	2	2	0
UNIFIED SCHOOL DIST	20	21	13	24	21
WAR MEMORIAL	2	1	0	5	5
WATER DEPARTMENT	107	82	149	132	227
YOUTH GUIDANCE CENTER	4	2	1	4	1
ZONING ADMINISTRATOR	0	0	0	0	0
MISC.	24	20	0	8	27
	4,756	4,747	5,000	5,183	6,180



# APPENDIX B

## ACTIONS FILED

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
ADULT PROBATION	1	2	0	0	0
AGRICULTURAL COMMISSION	0	0	0	0	1
AIRPORT	16	5	24	21	30
ART COMMISSION	1	0	1	0	2
ASSESSMENT APPEALS BOARD	1	0	0	1	1
ASSESSOR	12	7	18	4	1
BOARD OF PERMIT APPEALS	9	7	4	5	4
BOARD OF SUPERVISORS	15	7	9	8	6
CENTRAL PERMIT BUREAU	0	0	1	1	0
CAO	2	0	0	0	1
CITY ATTORNEY	1	2	2	2	1
CITY PLANNING	1	6	5	5	7
CIVIL SERVICE COMMISSION	16	8	16	6	10
CLEAN WATER	0	6	14	5	9
COMMISSION ON THE AGING	1	0	0	2	0
COMMUNITY COLLEGE	2	4	5	8	9
COMMUNITY MENTAL HEALTH	0	0	0	0	0
CONTROLLER	4	2	2	2	1
CORONER	0	1	0	0	0
COUNTY CLERK	4	0	0	0	5
DISTRICT ATTORNEY	3	1	3	7	4
ELECTRICITY	4	2	3	0	0
FARMERS MARKET	0	0	0	0	0
FINE ARTS MUSEUMS	0	0	1	0	4
FIRE	10	6	9	15	17
HEALTH SERVICE SYSTEM	0	0	0	3	3
HETCH HETCHY	2	1	5	2	4
HOUSING AUTHORITY	0	1	1	1	3
HUMAN RIGHTS COMMISSION	0	0	0	0	2
JUVENILE COURT	0	3	3	3	0
JUVENILE PROBATION	1	0	0	0	0
LEGION OF HONOR	0	0	0	0	0
LIBRARY	2	0	0	1	1
LIGHT, HEAT & POWER	0	0	0	1	0
MAYOR	3	3	7	5	10
MODEL CITIES	0	0	0	0	0
MOSCONE CONVENTION CENTER	0	0	0	0	3
MUNICIPAL COURT	6	2	0	2	12
MUNICIPAL RAILWAY	431	365	477	360	415
OFFICE OF COMMUNITY DEVEL	0	0	0	1	0
PARKING AUTHORITY	0	2	3	3	1
POLICE	89	93	115	132	140
PORT COMMISSION	14	24	23	10	17





APPENDIX B  
(Continued)

ACTIONS FILED

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
PUBLIC ADMINISTRATOR	0	1	2	0	2
PUBLIC DEFENDER	0	0	1	1	0
PUBLIC HEALTH	21	32	25	47	42
PUBLIC UTILITIES COMM.	4	3	0	30	11
PUBLIC WORKS	129	140	111	91	119
PURCHASER	0	4	2	5	2
RAP	0	0	0	0	0
REAL ESTATE	7	17	19	14	23
RECORDER	0	0	1	0	0
RECREATION & PARK DEPT	34	18	24	37	20
REDEVELOPMENT AGENCY	3	2	0	1	0
REGISTRAR OF VOTERS	9	4	2	6	3
RENT ARBITRATION BOARD	0	0	2	0	7
RETIREMENT	22	56	66	85	74
SHERIFF'S DEPT	7	10	9	12	16
SOCIAL SERVICES	0	13	29	160	280
SUPERIOR COURT	0	5	4	13	14
TAX COLLECTOR	3	9	6	10	12
TREASURER	0	1	1	0	7
UNIFIED SCHOOL DIST	32	29	15	49	19
WAR MEMORIAL	0	1	1	7	0
WATER	13	15	29	23	14
YOUTH GUIDANCE CENTER	1	0	0	0	1
ZONING ADMINISTRATOR	1	0	0	0	0
	937	920	1,100	1,207	1,390



# APPENDIX C

## ACTIONS CONCLUDED

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
ADULT PROBATION	0	0	0	0	0
AGRICULTURAL COMM.	0	0	0	0	0
AIRPORT	12	3	22	8	24
ART COMMISSION	0	0	0	1	1
ASSESSMENT APPEALS BOARD	1	0	1	1	0
ASSESSOR	6	7	15	4	13
BOARD OF PERMIT APPEALS	19	9	13	3	9
BOARD OF SUPERVISORS	11	8	11	9	6
CAO	0	0	3	0	1
CENTRAL PERMIT BUREAU	0	0	0	0	0
CITY ATTORNEY	1	0	2	0	2
CITY PLANNING	3	3	16	7	1
CIVIL SERVICE COMMISSION	10	11	15	7	44
CLEAN WATER	0	0	0	0	1
COMMISSION ON AGING	0	0	0	1	1
COMMUNITY COLLEGE DISTR.	2	1	4	4	3
COMMUNITY MENTAL HEALTH	0	0	0	0	0
CONTROLLER	11	1	2	5	4
CORONER	0	0	2	0	0
COUNTY CLERK	0	0	1	4	1
DISTRICT ATTORNEY	2	0	2	1	1
ELECTRICITY	4	2	3	5	2
FARMERS MARKET	1	0	0	0	0
FINE ARTS MUSEUMS	1	0	0	0	0
FIRE DEPARTMENT	10	6	9	10	13
HEALTH SERVICE SYSTEM	0	0	0	1	0
HETCH HETCHY	4	0	5	7	0
HOUSING AUTHORITY	1	1	2	0	2
HUMAN RIGHTS COMMISSION	0	0	0	0	0
JUVENILE COURT	1	0	0	0	4
JUVENILE PROBATION	0	0	0	0	0
LEGION OF HONOR	0	0	0	0	0
LIBRARY	2	3	0	1	0
LIGHT, HEAT & POWER	0	0	0	0	0
MAYOR	0	0	5	6	2
MODEL CITIES	1	1	1	0	0
MOSCONE CONV. CENTER	0	0	0	0	0
MUNICIPAL COURT	3	3	4	4	3
MUNICIPAL RAILWAY	370	356	468	422	415
OFFICE OF COMMUNITY DEVEL	0	0	0	0	0
PARKING AUTHORITY	1	2	2	0	2



APPENDIX C  
(Continued)

ACTIONS CONCLUDED

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
POLICE DEPARTMENT	108	71	132	75	93
PORT COMMISSION	3	6	7	13	35
PUBLIC ADMINISTRATOR	0	0	0	0	1
PUBLIC DEFENDER	0	0	1	1	0
PUBLIC HEALTH	24	9	33	16	26
PUBLIC UTILITIES COMM.	1	0	3	2	9
PUBLIC WORKS	135	112	150	139	138
PURCHASING	0	0	1	2	3
RAP	0	0	0	2	0
REAL ESTATE	7	6	6	2	43
RECORDER	0	0	0	1	0
RECREATION & PARK DEPT	20	24	23	21	23
REDEVELOPMENT AGENCY	4	2	9	1	1
REGISTRAR OF VOTERS	2	8	2	5	0
RENT ARBITRATION BOARD	0	0	0	0	0
RETIREMENT	38	6	19	14	6
SHERIFF'S DEPT	6	7	7	7	5
SOCIAL SERVICES	3	4	5	28	99
SUPERIOR COURT	0	2	3	5	4
TAX COLLECTOR	9	0	7	6	1
TREASURER	0	0	2	1	0
UNIFIED SCHOOL DIST	40	24	38	39	33
WAR MEMORIAL	4	0	1	1	1
WATER DEPARTMENT	14	13	19	28	28
YOUTH GUIDANCE CENTER	3	0	1	0	0
ZONING ADMINISTRATOR	0	0	0	1	0
	898	711	1,077	921	1,104



APPENDIX D

PENDING ACTIONS

<u>Department</u>	<u>6-30-78</u>	<u>6-30-79</u>	<u>6-30-80</u>	<u>6-30-81</u>	<u>6-30-82</u>
ADULT PROBATION	1	3	3	3	3
AGRICULTURAL COMMISSION	0	0	0	0	1
AIRPORT	93	95	97	110	105
ART COMMISSION	1	1	1	1	4
ASSESSMENT APPEALS BOARD	1	1	1	1	1
ASSESSOR	76	76	79	79	55
ASIAN ART MUSEUM	0	0	0	0	3
BOARD OF PERMIT APPEALS	11	9	0	2	13
BOARD OF SUPERVISORS	45	48	46	45	47
CENTRAL PERMIT BUREAU	0	0	1	2	2
CHIEF ADMINISTRATIVE OFFICER	0	0	1	0	1
CITY ATTORNEY	2	4	4	6	4
CITY PLANNING	30	33	22	20	60
CIVIL SERVICE COMMISSION	60	57	59	57	75
CLEAN WATER	0	6	19	23	30
COMMISSION ON THE AGING	1	1	1	3	2
COMMUNITY COLLEGE	15	3	4	8	26
COMMUNITY MENTAL HEALTH	0	15	15	15	0
CONTROLLER	22	23	23	20	19
CORONER	0	1	0	0	0
COUNTY CLERK	8	8	9	5	9
DISTRICT ATTORNEY	7	8	9	15	17
ELECTRICITY	10	10	10	5	6
FARMERS MARKET	0	0	0	0	0
FINE ARTS MUSEUMS	6	6	7	7	11
FIRE DEPARTMENT	28	22	28	33	36
HEALTH SERVICE SYSTEM	0	0	2	0	7
HETCH HETCHY	19	20	20	15	20
HOUSING AUTHORITY	3	3	2	3	4
HUMAN RIGHTS COMMISSION	1	1	1	1	3
JUVENILE COURT	3	6	9	12	5
JUVENILE PROBATION	1	1	1	1	1
LEGION OF HONOR	1	1	1	1	0
LIBRARY	4	4	1	1	2
LIGHT, HEAT & POWER	1	1	1	2	0
MAYOR	14	17	19	18	24
MODEL CITIES	0	0	0	0	0
MOSCONE CONVENTION CENTER	0	0	0	0	6
MUNICIPAL COURT	28	27	23	21	28
MUNICIPAL RAILWAY	1076	1086	1095	1033	1029
OFFICE OF COMMUNITY DEVEL	0	0	0	1	0
PARKING AUTHORITY	3	3	4	7	4
POLICE DEPARTMENT	352	374	357	414	454





APPENDIX D  
(Continued)

PENDING ACTIONS

<u>Department</u>	6-30-78	6-30-79	6-30-80	6-30-81	6-30-82
PORT COMMISSION	52	70	86	83	60
PUBLIC ADMINISTRATOR	1	2	4	4	4
PUBLIC DEFENDER	0	0	0	0	1
PUBLIC HEALTH	78	101	93	124	133
PUBLIC UTILITIES COMM.	4	7	4	32	29
PUBLIC WORKS	507	539	500	453	440
PURCHASER	3	7	8	11	9
RAP	2	2	2	0	1
REAL ESTATE	44	45	68	80	58
RECORDER	0	1	2	1	2
RECREATION & PARK DEPT	88	82	83	99	94
REDEVELOPMENT AGENCY	12	12	3	3	4
REGISTRAR OF VOTERS	38	33	33	34	16
RENT ARBITRATION BOARD	0	0	2	2	8
RETIREMENT	32	82	129	200	268
SHERIFF'S DEPT	36	39	41	46	59
SOCIAL SERVICES	64	73	97	229	321
SUPERIOR COURT	7	10	11	19	30
TAX COLLECTOR	30	39	38	42	42
TREASURER	1	2	1	0	34
UNIFIED SCHOOL DIST	144	149	126	136	110
WAR MEMORIAL	1	2	2	8	7
WATER DEPARTMENT	74	76	86	81	62
YOUTH GUIDANCE CENTER	6	6	5	5	4
ZONING ADMINISTRATOR	2	2	2	2	0
UNASSIGNED DEPTS					31
	3,149	3,355	3,401	3,684	3,944



APPENDIX E  
WORK ASSIGNMENTS

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
ADULT PROBATION	1	1	3	2	3
AGRICULTURAL COMM.	0	0	0	0	0
AIRPORT	1	4	0	3	3
ART COMMISSION	7	4	1	0	17
ASIAN ART MUSEUM	0	0	0	0	1
ASSESSMENT APPEALS BOARD	1	0	0	1	0
ASSESSOR	11	6	1	4	19
B L H P	0	0	0	0	0
BOARD OF PERMIT APPEALS	1	3	3	10	3
BOARD OF SUPERVISORS	230	179	289	336	364
CANDLESTICK	0	0	0	0	0
CAO	3	5	6	3	6
CENTRAL PERMIT BUREAU	1	0	0	0	0
CITY ATTORNEY	3	1	0	2	5
CITY PLANNING	15	36	39	43	61
CIVIL SERVICE COMMISSION	20	19	17	14	14
CLEAN WATER	0	1	1	0	0
COMMISSION ON AGING	2	0	6	2	0
COMMUNITY COLLEGE DISTR.	0	1	2	0	0
COMMUNITY MENTAL HEALTH	0	1	0	1	0
COM STATUS WOMEN	0	0	0	0	1
CONTROLLER	4	2	6	5	4
CORONER	0	0	2	0	1
COUNTY CLERK	0	2	3	0	3
DISTRICT ATTORNEY	5	6	1	3	1
ELECTRICITY	0	0	0	0	0
EMER SER	0	0	0	0	1
EMS	0	0	2	1	0
FARMERS MARKET	0	0	0	0	0
FINE ARTS MUSEUMS	0	0	0	0	38
FIRE DEPARTMENT	7	11	30	23	17
GEN HSP	0	0	0	0	0
HEALTH SERVICE SYSTEM	0	0	0	0	1
HETCH HETCHY	0	0	0	0	0
HOUSING AUTHORITY	1	0	1	0	0
HUMAN RIGHTS COMMISSION	1	1	1	6	3
INFO	0	0	0	0	42
JUVENILE COURT	2	4	4	4	3
JUVENILE PROBATION	0	0	0	0	0
LIBRARY	6	1	0	4	6
LIGHT, HEAT & POWER	0	0	0	0	0



APPENDIX E  
(Continued)

WORK ASSIGNMENTS

<u>Department</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>
MAYOR	28	32	32	40	26
MOET	2	1	4	6	3
MOSCONE CONV. CENTER	0	0	0	0	0
MUNICIPAL COURT	4	2	1	2	3
OFFICE OF COMMUNITY DEVEL	1	1	3	18	6
OPEN	0	0	0	0	0
PARKING AUTHORITY	2	4	0	0	0
POLICE DEPARTMENT	23	17	31	31	31
PORT COMMISSION	3	2	1	0	5
PUBLIC ADMINISTRATOR	1	1	0	0	0
PUBLIC DEFENDER	1	0	1	1	0
PUBLIC HEALTH	12	9	13	13	21
PUBLIC UTILITIES COMM.	0	11	4	0	7
PUC/MUNI	3	4	1	2	3
PUBLIC WORKS	18	7	25	18	56
PURCHASER	2	2	2	1	1
RAP	2	2	2	0	1
REAL ESTATE	5	5	6	12	14
RECORDER	0	2	1	4	7
RECREATION & PARK DEPT	8	28	12	15	14
REDEVELOPMENT AGENCY	1	0	0	0	0
REGISTRAR OF VOTERS	2	1	9	10	5
RENT ARBITRATION BOARD	0	0	5	4	8
RETIREMENT	2	3	2	3	3
SHERIFF'S DEPT	2	0	2	0	2
SOCIAL SERVICES	54	40	38	45	30
SOLID WASTE	0	0	0	0	0
SUPERIOR COURT	1	1	3	2	1
TAX COLLECTOR	1	3	6	4	4
TREASURER	3	1	4	3	2
UNIFIED SCHOOL DIST	2	5	3	2	0
WAR MEMORIAL	0	2	2	1	13
WATER DEPARTMENT	0	0	0	0	0
	505	474	631	704	883

0371C















